

Hearing Date: March 1, 2021 at 10:00 a.m. (Prevailing Eastern Time)
Objection Deadline: February 22, 2021 at 4:00 p.m. (Prevailing Eastern Time)

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

THE DIOCESE OF ROCKVILLE CENTRE, NEW
YORK,

Debtor.

Chapter 11

Case No. 20-12345 (SCC)

**MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS FOR ENTRY OF AN ORDER PURSUANT TO BANKRUPTCY RULE
2004 AUTHORIZING EXAMINATIONS AND PRODUCTION OF DOCUMENTS**

The Official Committee of Unsecured Creditors (the “**Committee**”) of The Diocese of
Rockville Centre, New York (the “**Diocese**” or the “**Debtor**”) in the above-captioned case (the
“**Case**”) under chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”), by

and through its undersigned counsel, hereby moves (the “**Motion**”) this Court for entry of an order pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) authorizing the examination pursuant to Bankruptcy Rule 2004 of the Debtor. In support of the Motion, the Committee respectfully states as follows:

PRELIMINARY STATEMENT

1. The Debtor has admitted that there are colorable claims that it is conflicted from pursuing on account of pre-petition transfers by the Debtor to entities related to the Debtor. The Debtor attempted to circumvent this inherent conflict through the appointment of the Independent Advisory Committee (“**IAC**”) to investigate, litigate and settle such claims. However, the IAC’s appointment is legally flawed and unworkable because the IAC cannot settle fraudulent transfer claims on behalf of the Debtor’s estate. Since the Debtor filed applications to retain counsel and financial advisors on behalf of the IAC four months ago, there has been no resolution of the IAC’s further role, if any, in this case.

2. In order to bridge this impasse and find the best way to move those colorable claims forward, the Committee has repeatedly requested a copy of the IAC Report (defined below). Despite these requests, the Committee has been provided with no information regarding the pre-petition work completed by the IAC or the potential fraudulent transfer claims. Additionally, the Debtor has been unable to resolve the issues with the IAC raised by the Committee and the Court, including the statutory provisions limiting the IAC to an advisory role, as well as the concern that the retention of additional professionals for the IAC is an unnecessary drain of estate resources.¹

¹ *Official Committee of Unsecured Creditors’ Objection to the Retention Applications*, Docket No. 103; *see also* Declaration of James I. Stang (“**Stang Decl.**”), Ex. A (Transcript of 11/18/20 Hearing, 52:1–53:10).

3. The Committee seeks information from the Debtor about the potential claims investigated by the IAC and, reportedly, described in the IAC Report. The Committee seeks information in order to assess, among other things, (a) the work performed by the IAC; (b) whether the Debtor made any fraudulent transfers; (c) the appropriate mechanism for pursuing the potential fraudulent transfer claims; and (d) whether any entities hold property for the Debtor's benefit (collectively, the "**Investigation Matters**"). The Committee seeks such information in order to carry out its duties under section 1103 of the Bankruptcy Code in a cost-effective manner and to work to maximize unsecured creditors' recoveries in this Case.

4. Specifically, the Committee seeks the IAC's report to the Diocese regarding its analysis of the potential claims. Without the report, it is impossible for the Committee to evaluate the work that has already been performed by the IAC and the potential future role for the IAC in this Case. Additionally, the Committee seeks access to the information the IAC relied on in drafting its report to conduct an independent analysis of the estate's potential claims.

5. Through this Motion, the Committee seeks entry of an order, pursuant to Bankruptcy Rule 2004, (i) requiring the Debtor to produce the IAC Report and (ii) authorizing the Committee to issue subpoenas to the Debtor for information related to the Investigation Matters.

RELEVANT FACTS²

A. Background

6. On October 1, 2020 (the "**Petition Date**"), the Debtor commenced its Chapter 11 case by filing a voluntary petition for relief under Bankruptcy Code Chapter 11. Pursuant to

² Many facts described herein are Debtor's own allegations and the Committee has not verified their validity and is not admitting to their truth. In addition, as noted below, the Committee has thus far received little information regarding the IAC's investigation from the Debtor. As such, the Committee reserves the right to modify, clarify, or amend any factual assertions in this Motion.

sections 1107(a) and 1108 of the Bankruptcy Code, the Debtor continues to operate as debtor in possession.

7. No trustee or examiner has been appointed in this case.

8. On October 16, 2020, the United States Trustee for Region 2 appointed the Committee pursuant to section 1102 of the Bankruptcy Code. The Committee consists of nine individuals who hold claims against the Debtor, including eight individuals who were sexually abused as minors by perpetrators for whom the Debtor was responsible and one representative of a minor with a civil rights claim against the Debtor.³

B. The IAC's Pre-Petition Activity

9. The Diocese appointed the IAC to “review certain transactions between the Diocese and Diocese Affiliates outside the ordinary course of administration and support that the Diocese provides to the Diocese Affiliates.”⁴ The IAC reportedly reviewed four transactions: (i) the Diocese’s transfer of certain assets and all liabilities of its Cemetery Division to two separate entities, the Cemetery Corporation and Cemetery Trust on September 1, 2017;⁵ “(ii) the January 2017 transfer of the real property parcel located in Huntington, New York to Seminary Corporation; (iii) the September 2017 transfer of assets, operations and liabilities of the Diocesan high schools to the Department of Education; and (iv) the 2018 transfer of \$3 million to the Catholic Foundation.”⁶

³ See *Notice of Appointment of Official Committee of Unsecured Creditors* [Docket No. 71].

⁴ Declaration of Charles Moore, Managing Director of Alvarez & Marsal North America, LLC, Proposed Restructuring Advisor to the Roman Catholic Diocese of Rockville Centre, New York, In Support of Chapter 11 Petition and First Day Pleadings (the “**Moore Decl.**”) dated October 1, 2020 [Docket 3] at ¶ 121.

⁵ *Id.*; see also *id.* ¶53.

⁶ *Id.* ¶ 121.

10. The IAC members were paid a fixed monthly fee of \$25,000 for the chair and \$20,000 for the other two members since its appointment.⁷ Upon information and belief, the IAC members are not currently being paid. The IAC hired Otterbourg P.C. (“**Otterbourg**”) as its counsel and Goldin, a Teneo Company (“**Goldin**”) as its financial advisor.⁸ The IAC accessed over 220,000 documents—including Diocese records, such as minutes, financial statements, reports, and emails—and interviewed key Diocese personnel.⁹

C. The IAC’s Report of Colorable Claims

11. On October 12, 2020, the Diocese filed applications on behalf of the IAC to retain Otterbourg and Goldin as bankruptcy professionals.¹⁰ The Committee objected to the Retention Applications.¹¹

12. In its reply to the Committee’s objection, the Diocese stated that the “IAC has independently determined . . . that the transfers it was charged with evaluating give rise to colorable claims on behalf of the Diocese.”¹²

13. The IAC also filed a statement in support of the Retention Applications, stating that it completed its “extensive investigation” in July 2020 and “advised the Diocese that it had determined one or more colorable claims exist in favor of the Diocese arising from the Affiliate Transactions.”¹³

⁷ *Id.* ¶ 125.

⁸ *Id.* ¶ 126.

⁹ *Id.* ¶¶ 126–27.

¹⁰ *Application to Employ Otterbourg P.C. as Counsel to the Independent Advisory Committee*, Docket No. 60 (“**Otterbourg Application**”); *Application to Employ Goldin, A Teno Company as Financial Advisor to the Independent Advisory Committee*, Docket No. 61 (“**Goldin Application**” and, together with the Otterbourg Application, “**Retention Application**”).

¹¹ *Official Committee of Unsecured Creditors’ Objection to the Retention Applications*, Docket No. 103.

¹² *Debtor’s Reply in Support of the Retention Applications*, Docket No. 150, p. 7 of 22.

¹³ *Statement of the IAC in Further Support of the Retention Applications*, Docket No. 152, p. 2 of 16.

14. At the November 18, 2020 omnibus hearing, Mr. Peter Feldman from Otterbourg stated that in July or August 2020 “there was a report that was delivered by the IAC, a written report by the IAC to the diocese” (the “**IAC Report**”).¹⁴

D. The Diocese’s Reluctance to Disclose Information

15. On November 17, 2020, the Committee provided the Diocese with a list of document requests, including three of the requests included on **Exhibit A**.¹⁵

16. On November 19, 2020, the Committee requested that Mr. Feldman, as counsel to the IAC, provide the Committee a copy of the IAC Report.¹⁶ On November 20, 2020, Mr. Feldman declined to produce the IAC Report and referred the Committee to the Diocese.¹⁷ On November 23, 2020, the Committee requested that the Diocese provide the Committee a copy of the IAC Report.¹⁸ The Committee never received a written response from the Diocese, but was told in phone conversations that the Diocese would not produce the IAC Report.¹⁹

17. The Committee has received no additional information regarding the IAC’s work or the underlying transfers.²⁰

18. Given the Diocese’s proven reluctance to disclose information, the Committee is hopeful that the Court’s authority, through an order authorizing the Committee to seek information from the Diocese pursuant to Rule 2004, will avoid unnecessary delay and expense.

¹⁴ Stang Decl., Ex. A (Transcript of 11/18/20 Hearing, 60:8–10).

¹⁵ Stang Decl., Ex. B (11/17/20 Dine Email).

¹⁶ Stang Decl., Ex. C (Letter to P. Feldman).

¹⁷ Stang Decl., Ex. D (E-mail from P. Feldman).

¹⁸ Stang Decl., Ex. E (Letter to C. Ball).

¹⁹ Stang Decl., ¶ 10.

²⁰ Stang Decl., ¶ 11.

JURISDICTION

19. This Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicate for the relief sought herein are sections 1103 and 1109(b) of the Bankruptcy Code and Bankruptcy Rule 2004.

RELIEF REQUESTED

20. The Committee respectfully requests entry of an order pursuant to Bankruptcy Rule 2004 (i) requiring the Debtor to produce the IAC Report and all related exhibits, attachments, and underlying documents; and (ii) authorizing the Committee to issue subpoenas that direct production of Investigation Matters from the Debtor, substantially in the form annexed hereto as **Exhibit A** (the “**Request**”).

BASIS FOR RELIEF

21. Bankruptcy Rule 2004(a) provides that “[o]n motion of any party in interest, the court may order the examination of any entity.” Bankruptcy Rule 2004(a). Bankruptcy Rule 2004 is primarily used for “revealing the nature and extent of the bankruptcy estate, and for discovering assets, examining transactions, and determining what wrongdoing occurred.” *In re Kelton*, 389 B.R. 812, 820 (Bankr. S.D. Ga. 2008); *see also In re Lufkin*, 255 B.R. 204, 208 (Bankr. E.D. Tenn. 2000) (Rule 2004’s purpose is to “determine the condition, extent, and location of the debtor’s estate in order to maximize distribution to unsecured creditors”); *In re The Bennet Funding Group, Inc.*, 203 B.R. 24, 28 (Bankr. N.D.N.Y. 1996) (Rule 2004’s purpose is to assist in “revealing the nature and extent of the estate, and to discover assets of the debtor which may have been intentionally or unintentionally concealed”).

22. Pursuant to Bankruptcy Rule 2004, a party in interest may seek both document and oral discovery related to “acts, conduct, or property of the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate, or to the debtor’s right to a discharge.” Bankruptcy Rule 2004(b). Under Bankruptcy Rule 2004(c), the “attendance of an entity for examination and the production of documents. . . may be compelled in the manner provided in Rule 9016 for the attendance of witnesses at a hearing or trial.” Bankruptcy Rule 2004(c). In turn, Bankruptcy Rule 9016 makes Federal Rule of Civil Procedure 45 (governing subpoenas) applicable in cases under the Bankruptcy Code. Bankruptcy Rule 9016.

23. Unlike discovery under the Federal Rules of Civil Procedure (the “**Civil Rules**”), discovery under Bankruptcy Rule 2004 can be used as a “pre-litigation discovery device.” *In re Wilson*, 2009 WL 304672, at *5 (Bankr. E.D. La. 2009); *see also In re Hughes*, 281 B.R. 224, 226 (Bankr. S.D.N.Y. 2002). As such, a Bankruptcy Rule 2004 motion need not be tied to specific factual allegations at issue between parties. *In re Symington*, 209 B.R. 678, 683 (Bankr. D. Md. 1997) (Bankruptcy Rule 2004 permits “examination of any party without the requirement of a pending adversary proceeding or contested matter”).

24. Moreover, the scope of a Bankruptcy Rule 2004 examination is broader than that of discovery under the Civil Rules or the Bankruptcy Rules governing adversary proceedings. *In re Ecam Publications, Inc.*, 131 B.R. 556, 559 (Bankr. S.D.N.Y. 1991); *see also In re Drexel Burnham Lambert Group, Inc.*, 123 B.R. 702, 711 (Bankr. S.D.N.Y. 1991) (“[T]he scope of a Rule 2004 examination is very broad. Rule 2004 discovery is broader than discovery under the Federal Rules of Civil Procedure.”). In fact, courts have recognized that Bankruptcy Rule 2004 examinations may be “broad” and “unfettered,” and can legitimately be in the nature of a

“fishing expedition.” *In re Countrywide Home Loans, Inc.*, 384 B.R. 373, 400 (Bankr. W.D. Pa. 2008); *see also In re Lev*, 2008 WL 207523, at *3 (Bankr. D.N.J. 2008); *In re Bakalis*, 199 B.R. 443, 447 (Bankr. E.D.N.Y. 1996); *In re The Bennet Funding Group, Inc.*, 203 B.R. 24, 28 (Bankr. N.D.N.Y. 1996) (Rule 2004’s purpose is to assist in “revealing the nature and extent of the estate, and to discover assets of the debtor which may have been intentionally or unintentionally concealed”); *In re Valley Forge Plaza Assocs.*, 109 B.R. 669, 674 (E.D. Pa. 1990). “Because the purpose of the Rule 2004 investigation is to aid in the discovery of assets, any third party who can be shown to have a relationship with the debtor can be made subject to a Rule 2004 investigation.” *In re Ionosphere Clubs, Inc.*, 156 B.R. 414, 432, (Bankr. S.D.N.Y. 1993), *aff’d*, 17 F.3d 600 (2d Cir. 1994).

25. The decision whether to authorize the requested discovery rests within the bankruptcy court’s sound discretion. *See, e.g., In re Hammond*, 140 B.R. 197, 200 (Bankr. S.D. Ohio 1992). Courts authorize discovery under Bankruptcy Rule 2004 to assist in recovering assets for the benefit of a debtor’s creditors. *See In re Vantage Petroleum Corp.*, 34 B.R. 650, 651 (Bankr. E.D.N.Y. 1983) (allowing discovery under Rule 2004 to help the debtor “discover and recover assets for benefit of creditors of the debtor”).

26. In addition, section 105(a) of the Bankruptcy Code authorizes the Court to “issue any order . . . that is necessary or appropriate to carry out provisions of this title.” 11 U.S.C. § 105(a). The Committee’s investigation will, among other things, assist the Committee to fulfill its statutory duty to “investigate the acts, conduct, assets, liabilities, and financial condition of the [D]ebtor.” 11 U.S.C. § 1103(c)(2).

27. Here, the requested relief is well within the scope of Bankruptcy Rule 2004. The Committee seeks to maximize creditors’ recoveries in this Case. As such, the Committee needs

the information it seeks to properly evaluate the value of the potential transfer claims and the IAC's analysis of the claim after its yearlong investigation. The Committee cannot engage in discussions regarding the future of the IAC and the prosecution of the potential claims without the IAC Report and the underlying information.

28. Based on the foregoing, the Court should enter an order (i) requiring the Debtor to produce the IAC Report and all related exhibits, attachments, and underlying documents and (ii) authorizing the Committee to issue subpoenas (a) seeking Investigation Material from the Diocese and (b) testimony regarding the Investigation Material.

NO PRIOR REQUEST

29. No prior request for the relief sought in this Motion has been made to this or any other Court.

NOTICE

30. Notice of this Motion has been given to (a) the U.S. Trustee; (b) Counsel to the Debtor; (c) all parties listed on the matrixes of creditors provided by the Debtor's in these Cases; and (d) all parties that filed a notice of appearance in these Cases as of the date hereof. In light of the nature of the relief requested herein, the Committee submits that no other or further notice is required.

WHEREFORE, the Committee respectfully requests that this Court: (i) enter an order substantially in the form attached hereto as **Exhibit B**, granting the relief sought herein; and (ii) grant such other and further relief to the Committee as the Court may deem proper.

PACHULSKI STANG ZIEHL & JONES LLP

Dated: New York, New York
February 12, 2021

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of Unsecured Creditors of The Roman Catholic
Diocese of Rockville Centre, New York

EXHIBIT A

EXHIBIT A

Subpoena to The Roman Catholic Diocese of Rockville Centre, New York

INSTRUCTIONS

A. You are required to conduct a thorough investigation and produce all Documents (as defined below) in your possession, custody, and control including all Documents in the possession, custody and control of your attorneys, investigators, experts, officers, trustees, members, directors, employees, agents, representatives, and anyone acting on Your behalf.

B. The use of either the singular or plural shall not be deemed a limitation. The use of the singular should be considered to include the plural and vice versa.

C. The words “and,” “or,” and “and/or” are interchangeable and shall be construed either disjunctively or conjunctively or both, as broadly as necessary to bring within the scope of the Request those responses that might otherwise be construed to be outside the scope.

D. If You are unable to comply with a particular category(ies) of the requests below and Documents responsive to the category are in existence, state the following information:

1. The date of the Document;
2. The type of Document (*e.g.*, letter, memorandum, report, etc.);
3. The name, address, telephone number and title of the author(s) of the Document;
4. The name, address, telephone number and title of each recipient of the Document;
5. The number of pages in the Document;
6. The document control number, if any;
7. The present location(s) of the Document and the name, address and telephone number of the person(s) who has (have) possession of the Document;
8. A specific description of the subject matter of the Document;
9. The reason why the Document cannot be produced or why you are unable to comply with the particular category of request.

E. You are under a continuing duty to timely amend your written response and to produce additional Documents if you learn that the response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the Plaintiff during the discovery process or in writing.

F. You are required to produce the full and complete originals, or copies if the originals are unavailable, of each Document responsive to the categories below along with all non-identical copies and drafts in its or their entirety, without abbreviations, excerpts, or redactions. Copies may be produced in lieu of originals if the entirety (front and back where appropriate) of the Document is reproduced and the Responding Party or its authorized agent or representative states by declaration or affidavit under penalty of perjury that the copies provided are true, correct, complete, and an accurate duplication of the original(s).

G. You are required to produce the Documents as they are kept in the usual course of business or your operations, or to organize and label them to correspond with each category in these requests.

H. You are required to produce Electronically Stored Information in searchable form.

I. For Documents that are currently in paper format:

1. Documents must be scanned and produced electronically in single page TIFF format with corresponding OPT file, DAT file, as well as OCR or extracted text and .lst file.
2. To the extent available, provide Beginning Production Number, Ending Production Number, Folder information, custodian information and family information.

J. For Documents that contain Electronically Stored Information, the following guidelines are to apply:

1. Single page, Group IV TIFFs with links to native files (for Excel or similar spread sheet or accounting files, at a minimum) with

corresponding OPT file, DAT file, as well as OCR or extracted text and .lst file.

2. Maintain family integrity.
3. Perform custodian-level reduplication.
4. Concordance standard delimited DAT load file with the following metadata fields: Beginning Production Number, Ending Production Number, Beginning Attachment Number, End Attachment Number, Family ID, Page Count, Custodian, Original Location Path, Email Folder Path, Document Type, Doc Author, Doc Last Author, Comments, Categories, Revisions, File Name, File Size, MD5 Hash, Date Last Modified, Time Last Modified, Date Created, Time Created, Date Last Accessed, Time Last Accessed, Date Sent, Time Sent, Date Received, Time Received, To, From, CC, BCC, Email Subject, Path to Native, Path to Full Text, Original Time Zone.
5. OCR or extracted text for all ESI: (a) Separate .txt files corresponding to beginning production number of each document; (b) Separate .lst file for fulltext.
6. Process all data in GMT and provide a metadata field indicating original time zone.

K. If you withhold or redact a portion of any Document under a claim of privilege or other protection, each such Document must be identified on a privilege log, which shall be produced contemporaneously with the non-privileged Documents responsive to this Request for Production, and which privilege log shall state the following information:

1. The date of the Document;
2. The type of Document (*e.g.*, letter, memorandum, report, etc.);
3. The name, address, telephone number and title of the author(s) of the Document;
4. The name, address, telephone number and title of each recipient of the Document;
5. The number of pages in the Document;
6. The document control number, if any;
7. The present location(s) of the Document and the name, address and telephone number of the persons) who has (have) possession of the Document;

8. A general description of the subject matter of the Document or the portion redacted without disclosing the asserted privileged or protected communication;
9. The specific privilege(s) or protection(s) that you contend applies.

L. Unless otherwise specified, the relevant time period to which each Request for Production relates is October 1, 2010 through the date You produce Documents responsive to the Requests.

DEFINITIONS

Unless otherwise stated, the following definitions shall apply to these Requests:

1. “**Bankruptcy Case**” means and refers to the chapter 11 case of The Roman Catholic Diocese of Rockville Centre, New York currently pending in the United States Bankruptcy Court for the Southern District of New York under the case captioned as *In re The Roman Catholic Diocese of Rockville Centre, New York*, Case No. 20-12345 (SCC).
2. “**Bankruptcy Code**” means and refers to 11 U.S.C. §101 *et seq.* (as amended from time to time).
3. “**Communications**” means and includes all oral and written communications of any nature, type or kind including, but not limited to, any Documents, telephone conversations, discussions, meetings, facsimiles, e-mails, pagers, memoranda, and any other medium through which any information is conveyed or transmitted.
4. “**Concerning**” means and includes relating to, constituting, defining, evidencing, mentioning, containing, describing, discussing, embodying, reflecting, edifying, analyzing, stating, referring to, dealing with, or in any way pertaining to.
5. “**Debtor**” or “**Diocese**” means and includes both the civil entity and Canon law juridic person identified as The Roman Catholic Diocese of Rockville Centre, New York on its

voluntary petition for chapter 11 relief, and any predecessor thereof, as well as any person (including the bishop or apostolic administrator of the Diocese) acting on behalf of the Diocese.

6. **“Document”** is used herein in the broadest possible sense as specified in and interpreted under Rule 34 of the Federal Rules of Civil Procedure, and includes, without limitation, all originals and copies, duplicates, drafts, and recordings of any written, graphic or otherwise recorded matter, however produced, reproduced, or stored, and all “writings” as defined in Rule 1001 of the Federal Rules of Evidence, and all other tangible things by which human communication is transmitted or stored, meaning any kind of printed, recorded, graphic, or photographic matter, however printed, produced, reproduced, copies, reproductions, facsimiles, drafts and both sides thereof, including without limitation any kind of written, typewritten, graphic, photographic, printed, taped or recorded material whatsoever, regardless whether the same is an original, a copy, a reproduction, a facsimile, telex or telefax, and regardless of the source or author thereof, including without limitation, any writing filed for reporting or other purposes with any state, federal or local agency; notes; memoranda, including but not limited to memoranda of telephone conversations; letters; audited financial statements; unaudited financial statements; financial ledgers; intra-office or inter-office communications; circulars; bulletins; manuals; results of investigations; progress reports; study made by or for business or personal use; financial reports and data of any kind; working papers; contracts; agreements; affidavits; declarations; statements; bills; books of accounts; vouchers; transcriptions of conversations or tape recordings; desk calendars; bank checks; purchase orders; invoices; charge slips; receipts; expense accounts; statistical records; cost sheets; journals; diaries; time sheets or logs; computer data; job or transaction files; appointment books; books, records, and copies; electronic mail messages; extracts and summaries of other documents; drafts of any of the above, whether used

or not; and any other writing or recording; computer and other business machine printouts, programs, listings, projections, as well as any carbon or photographic or copies, reproductions or facsimiles thereof and all copies which differ in any way from the original, including without limitation, all forms of electronic media, data, data storage and other forms of electronic or computer-stored or computer-generated communications, data, or representations. This includes, but is not limited to, such material in the form of Electronically Stored Information: that is, any data present in memory or on magnetic or optical storage media as an “active” file or files (readily readable by one or more computer applications or forensics software), saved in an archive, present as “deleted” but recoverable electronic files in memory or on any media, and, present in any electronic file fragments (files that have been deleted and partially overwritten with new data) from files containing such material. Where any otherwise duplicate document contains any marking not appearing on the original or is altered from the original, then such item shall be considered to be a separate original document. Any Document that contains any comment, notation, addition, insertion or marking of any type or kind which is not part of another Document, is to be considered a separate Document.

7. “**Electronically Stored Information**” or “**ESI**” means, without limitation, all information contained on any computing device owned, maintained, or otherwise controlled by You, including, but not limited to, mainframe, desktop, laptop, tablet, or palmtop computers, network servers, telephone voicemail servers, employees’ employer-provided home computers, and the personal digital assistants (PDAs), digital cell phones, telephone answering machines, pagers, or other information-storing electronic devices of You and Your employees, or on associated external storage media, backup tapes, and other archival copies of same. Unless otherwise specified, documents, reports, and other Electronically Stored Information created

using any version of Microsoft Word, Powerpoint, Excel, Visio, or Access, Word Perfect, Oracle, or any other Microsoft, Adobe, or other currently available “off-the-shelf” application shall be produced in native form; that is, the form in which the document is currently stored on whatever media it currently resides. The document should not be locked, resaved, restructures, “scrubbed” of unapparent or hidden content or any other data or metadata, but rather should be produced in a copy precisely reproducing its entire state as present in Your systems. Unless otherwise specified, electronic mail (e-mail) should be produced in native form; that is, in whatever database and/or file/directory structures are used by Your mail processing software. All metadata and other unapparent or hidden data related to mail messages shall be produced, including, but not limited to, any file attachments, message priority flags, message read/access timestamps, and, in the case of e-mail sent to distribution lists, information on the membership of such lists at the time the e-mail was sent.

8. “**Each**” shall mean each and every.

9. “**Person**” means and includes individuals and entities, civil or canonical, including, but not limited to, communities, houses, ministries, regions, funds, missions, or apostolic institutions, as those terms are used under the laws of the Roman Catholic Church, for profit and not for profit corporations, partnerships, unincorporated associations, limited liability companies, trusts, firms, cooperatives, fictitious business names, educational institutions, governmental agencies whether local, state, or federal, and any and all of their agents, representatives, employees, predecessors, and/or any other Person acting on its/their behalf or subject to its/their control.

10. “**You**”, “**Your**”, and “**Yours**” means and refers to the Responding Party.

REQUESTS FOR PRODUCTION

1. All documents produced to or reviewed by the Independent Advisory Committee (“**IAC**”).
2. All communications between the Diocese and the IAC, including the IAC’s report on potentially colorable claims from July or August 2020.
3. Documents regarding any interviews conducted by the IAC.
4. All reports prepared by the IAC and provided to the Debtor.

EXHIBIT B

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

THE DIOCESE OF ROCKVILLE CENTRE, NEW
YORK,

Debtor.

Chapter 11

Case No. 20-12345 (SCC)

**ORDER AUTHORIZING THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS TO OBTAIN DISCOVERY PURSUANT TO BANKRUPTCY RULE 2004**

This matter coming before the Court on the Motion of the Official Committee of Unsecured Creditors (the “Committee”) of The Diocese of Rockville Centre, New York for entry of an order, pursuant to Bankruptcy Rule 2004, authorizing the examination pursuant of the Debtor (the “Motion”);¹ the Court having reviewed and considered the Motion and accompanying papers; the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and (iii) notice of the Motion as described in the Motion was proper under the circumstances; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and good and sufficient cause appearing therefor, it is hereby ORDERED that

1. The Motion is GRANTED.
2. The Debtor will produce to the Committee the IAC Report and all related exhibits, attachments, and underlying documents within thirty days of entry of this order.

¹ Capitalized terms not defined herein shall have the meanings and definitions ascribed to them in the Motion.

3. The Committee is authorized to, in its discretion, seek examinations of the Debtor with respect to Investigation Material pursuant to Bankruptcy Rule 2004 substantially as described in the Requests attached as Exhibit A to the Motion.

4. The Committee is authorized to issue subpoenas directing production of the Investigation Material pursuant to Rule 2004 on the Debtor.

5. The Committee may issue other discovery requests and subpoenas as may be necessary to accomplish the discovery authorized by this Order.

6. Nothing contained herein shall prejudice the Committee's rights under Bankruptcy Rule 2004 and other applicable laws to seek further document productions and written and oral examinations in connection with these Cases.

7. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: New York, New York
March __, 2021

THE HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:
THE ROMAN CATHOLIC DIOCESE OF
ROCKVILLE CENTRE, NEW YORK,
Debtor.

Chapter 11

Case No. 20-12345 (SCC)

DECLARATION OF JAMES I. STANG, ESQ.

Pursuant to 28 U.S.C. § 1746, I, James I. Stang, hereby submit this declaration (the “**Declaration**”) under penalty of perjury:

1. I am partner at the law firm of Pachulski Stang Ziehl & Jones LLP (“**PSZJ**”) with an office at 780 Third Avenue, 36th Floor, New York, NY 10017. I am duly admitted to practice law in State of California and the United States District Courts for the Southern, Eastern, Central, and Northern Districts of California.

2. Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein. If called as a witness, I would testify as to those facts.

3. The Court has approved PSZJ’s employment as counsel to the Official Committee of Unsecured Creditors (the “**Committee**”) in The Roman Catholic Diocese of Rockville Centre, New York (the “**Diocese**” or the “**Debtor**”) in the above-captioned case (the “**Case**”) [Docket No. 163].

4. I submit this Declaration in support of the *Motion of the Official Committee of Unsecured Creditors for Entry of an Order Pursuant to Bankruptcy Rule 2004 Authorizing Examinations and Production of Documents* (the “**Motion**”),¹ filed concurrently herewith.

¹ Capitalized terms not defined herein shall have the meanings and definitions ascribed to them in the Motion.

5. Attached hereto at **Exhibit A** is a true and correct copy of the transcript of the November 18, 2020 hearing in this case.

6. Attached hereto at **Exhibit B** is a true and correct copy of an e-mail sent by Karen B. Dine to counsel for the Diocese on November 17, 2020 conveying the Committee's proposed document requests.

7. Attached hereto at **Exhibit C** is a true and correct copy of a letter I sent to Peter Feldman on November 19, 2020 requesting a copy of the IAC Report.

8. Attached hereto at **Exhibit D** is a true and correct copy of an e-mail from Peter Feldman to me sent on November 20, 2020 deferring to the Diocese regarding production of the IAC Report.

9. Attached hereto at **Exhibit E** is a true and correct copy of a letter I sent to Corinne Ball on November 23, 2020 requesting a copy of the IAC Report.

10. I never received a written response from the Diocese to my November 20, 2020 letter, but was told in phone conversations that the Diocese would not produce the IAC Report.

11. The Committee has received no additional information regarding the IAC's work or the underlying transfers.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. I executed this Declaration on February 12, 2020 at Santa Monica, CA.

/s/ James I. Stang
James I. Stang, Esq.

EXHIBIT A

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 20-12345-scc

4 - - - - - x

5 In the Matter of:

6

7 THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, NEW YORK,

8

9 Debtor.

10 - - - - - x

11 Adv. Case No. 20-01226-scc

12 - - - - - x

13 THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, NEW YORK,

14 Plaintiff,

15 v.

16 ARK 320 DOE, et al.,

17 Defendants.

18 - - - - - x

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Page 2	Page 4
<p>1 Adv. Case No. 20-01227-scc</p> <p>2 ----- x</p> <p>3 THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, NEW YORK,</p> <p>4 Plaintiff,</p> <p>5 v.</p> <p>6 ARROWOOD INDEMNITY COMPANY, et al.,</p> <p>7 Defendants.</p> <p>8 ----- x</p> <p>9</p> <p>10</p> <p>11 United States Bankruptcy Court</p> <p>12 One Bowling Green</p> <p>13 New York, NY 10004</p> <p>14</p> <p>15 November 18, 2020</p> <p>16 11:02 AM</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 B E F O R E :</p> <p>22 HON SHELLEY C. CHAPMAN</p> <p>23 U.S. BANKRUPTCY JUDGE</p> <p>24</p> <p>25 ECRO: UNKNOWN</p>	<p>1 A P P E A R A N C E S :</p> <p>2</p> <p>3 JONES DAY LLP</p> <p>4 Attorneys for the Debtor</p> <p>5 250 Vesey Street</p> <p>6 New York, NY 10281</p> <p>7</p> <p>8 BY: CHRISTOPHER DIPOMPEO (TELEPHONICALLY)</p> <p>9 CORINNE BALL (TELEPHONICALLY)</p> <p>10 BENJAMIN ROSENBLUM (TELEPHONICALLY)</p> <p>11 TODD R. GEREMIA (TELEPHONICALLY)</p> <p>12 ERIC P. STEPHENS (TELEPHONICALLY)</p> <p>13 ANDREW BUTLER (TELEPHONICALLY)</p> <p>14 BENJAMIN THOMPSON (TELEPHONICALLY)</p> <p>15</p> <p>16 PACHULSKI STANG ZIEHL & JONES LLP</p> <p>17 Attorneys for the Committee of Unsecured Creditors</p> <p>18 780 Third Avenue, 34th Floor</p> <p>19 New York, NY 10017</p> <p>20</p> <p>21 BY: JAMES STANG (TELEPHONICALLY)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 3	Page 5
<p>1 HEARING re Doc #60 Application to Employ Otterbourg P.C. as</p> <p>2 Counsel to the Independent Advisory Committee</p> <p>3</p> <p>4 HEARING re Doc #61 Application to Employ Goldin, A Teneo</p> <p>5 Company as Financial Advisor to the Independent Advisory</p> <p>6 Committee</p> <p>7</p> <p>8 Adversary proceeding: 20-01226-scc The Roman Catholic</p> <p>9 Diocese Of Rockville Centre v. ARK 320 DOE, et al.,</p> <p>10 Pre-trial Conference</p> <p>11</p> <p>12 Adversary proceeding: 20-01227-scc The Roman Catholic</p> <p>13 Diocese Of Rockville Centre v. Arrowood Indemnity Company,</p> <p>14 et al</p> <p>15 Pre-trial Conference</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 Transcribed by: Sonya Ledanski Hyde</p>	<p>1 REED SMITH LLP</p> <p>2 Special Insurance Counsel</p> <p>3 599 Lexington Avenue</p> <p>4 New York, NY 10022</p> <p>5</p> <p>6 BY: JOHN BERRINGER (TELEPHONICALLY)</p> <p>7</p> <p>8 COUGHLIN DUFFY</p> <p>9 Attorneys for Arrowood</p> <p>10 350 Mount Kemble Avenue</p> <p>11 Morristown, NJ 07962</p> <p>12</p> <p>13 BY: KEVIN COUGHLIN (TELEPHONICALLY)</p> <p>14</p> <p>15 CLYDE & CO</p> <p>16 Attorneys for Lloyd's London & London Market Companies</p> <p>17 55 W. Monroe</p> <p>18 Chicago, IL 60603</p> <p>19</p> <p>20 BY: CATHY SUGAYAN (TELEPHONICALLY)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p>Page 6</p> <p>1 OTTERBOURG PC 2 Proposed Counsel to the Independent Advisory Committee 3 230 Park Avenue 4 New York, NY 10169 5 6 BY: PETER FELDMAN (TELEPHONICALLY) 7 8 UNITED STATES DEPARTMENT OF JUSTICE 9 Attorneys for the U.S. Trustee 10 201 Varick Street, Suite 1006 11 New York, NY 10014 12 13 BY: GREG ZIPES 14 15 ALSO PRESENT TELEPHONICALLY: 16 17 KAREN MORIARTY 18 LEANDER JAMES 19 JOSHUA WEINSTOCK 20 ARTHUR GONZALEZ 21 BRENDA ADRIAN 22 ILAN SCHARF 23 HARRIS J. GOLDIN 24 CHARLES JONES 25 JEFF ANDERSON</p>	<p>Page 8</p> <p>1 JEFF KAHANE 2 SHARA CORNELL 3 THOMAS SLOME 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>Page 7</p> <p>1 MELANIE CYGANOWSKI 2 JENNIFER FEENEY 3 TRUSHA GOFFE 4 PATRICK STONEKING 5 JAMES MOFFITT 6 MATIN BUNIN 7 JILLIAN DENNEHY 8 LAUREN LIFLAND 9 BRENDA HARKAVY 10 JARED BORRIELLO 11 ANDREW BUTLER 12 ANDREW CIRIELLO 13 MICKEE HENNESSY 14 WARREN MARTIN 15 BRETT MOORE 16 CHARLES MOORE 17 BENJAMIN ROSENBLUM 18 AMANDA TERSIGNI 19 BENJAMIN THOMSON 20 BRITTANY MICHAEL 21 GEORGE CALHOUN 22 PETER MCNAMARA 23 ELIZABETH CATE 24 KAREN DINE 25 FRANK OSWALD</p>	<p>Page 9</p> <p>1 PROCEEDINGS 2 THE COURT: Good morning, everyone. This Judge 3 Chapman. We're here this morning for a hearing in the case 4 of the Roman Catholic Diocese of Rockville Centre, case 5 number 20-12345. This hearing is being conducted entirely 6 telephonically via the Court Solutions platform. A 7 recording is being made of the proceedings. No individual 8 or private recordings are permitted. 9 I have a lengthy roster of those who have signed 10 up to participate this morning. Please identify yourself 11 for the record when you speak and identify the party on 12 whose behalf you are appearing and please do so each time 13 you speak so that we can create an accurate record. 14 I am looking at an agenda that was filed on the 15 docket on November 16th at docket number 160. So that's my 16 starting point. If I could please ask everyone to keep your 17 phones on mute unless and until you speak, that would help. 18 Thank you very much. And who would like to start on behalf 19 of the debtor today? 20 MR. DIPOMPEO: Good morning, Your Honor. This is 21 Christopher DiPompeo of Jones Day for the debtor. 22 THE COURT: Good morning. 23 MR. DIPOMPEO: I'm joined this morning -- morning. 24 I'm joined this morning by my colleagues Corinne Ball, Ben 25 Rosenblum, Todd Geremia, Eric Stephens, Andrew Butler, and</p>

<p style="text-align: right;">Page 10</p> <p>1 Ben Thompson.</p> <p>2 Your Honor, the agenda that you referred to which</p> <p>3 the debtor filed on Sunday included two uncontested motions,</p> <p>4 pre-trial conferences, and two adversary proceedings, and</p> <p>5 two contested motions in connection with the IAC. Yesterday</p> <p>6 afternoon, we saw the Court entered orders with respect to</p> <p>7 the two uncontested motions which were the insurance motion</p> <p>8 and the Pachulski retention application.</p> <p>9 THE COURT: Yes, exactly.</p> <p>10 MR. DIPOMPEO: So unless -- yep -- unless the</p> <p>11 Court would like to discuss anything with respect to those</p> <p>12 motions, I think we can move to the next agenda item which</p> <p>13 is the pre-trial conference and the automatic stay adversary</p> <p>14 proceeding.</p> <p>15 THE COURT: Very good.</p> <p>16 MR. DIPOMPEO: Okay. So with respect to that --</p> <p>17 oh, I'm sorry.</p> <p>18 THE COURT: Go ahead. No, go ahead.</p> <p>19 MR. DIPOMPEO: I was going to say with respect to</p> <p>20 that adversary proceeding, a few things that happened since</p> <p>21 we were last before the Court on November 4th. First, the</p> <p>22 debtor has been diligently working to serve the 200-plus</p> <p>23 defendants with the complaint and summons with a very good</p> <p>24 cooperation from state court counsel for the defendants. In</p> <p>25 fact, counsel for all but four defendants have agreed to</p>	<p style="text-align: right;">Page 12</p> <p>1 request does at least increase the possibility that we'll</p> <p>2 have to go forward with the contested hearing on December</p> <p>3 10th.</p> <p>4 You know, frankly, at this point, even if there</p> <p>5 were agreement on the topics of discovery which I'm sure</p> <p>6 there is, I think it would be very difficult to negotiate</p> <p>7 the scope of 117 document requests in just the three weeks</p> <p>8 we have before December 10th.</p> <p>9 THE COURT: Well, I don't -- thank you for that.</p> <p>10 I don't immediately understand the nexus between the ability</p> <p>11 to resolve on a consensual basis the duration of the stay</p> <p>12 and the need for that volume of discovery on that time</p> <p>13 table. So I don't know if this is the time to discuss that.</p> <p>14 Perhaps there should be an initial round of discussions</p> <p>15 between the debtors and committee counsel but that seems to</p> <p>16 me -- I agree with your observation that there wouldn't be</p> <p>17 time to work through that volume of discovery before the</p> <p>18 December 10th hearing, and I'm sure Mr. Stang will tell me</p> <p>19 why I am not looking at this correctly. But I simply do not</p> <p>20 understand why there would need to be that kind of</p> <p>21 connection when -- just to bring everybody back to the</p> <p>22 original page.</p> <p>23 The scope of the stay requested by the Diocese by</p> <p>24 my recollection was only until February 1st. So I don't</p> <p>25 know why we would expend a lot of extra time and resources</p>
<p style="text-align: right;">Page 11</p> <p>1 accept service on behalf of their clients. And as we</p> <p>2 discussed at the first day hearing, that's important to</p> <p>3 protect the confidentiality of survivors so we're glad that</p> <p>4 that's worked out -- worked out well.</p> <p>5 Service of the complaint and summons went out last</p> <p>6 week to all but those four defendants and we're still</p> <p>7 working out some kinks with counsel for a small number of</p> <p>8 defendants. The good news is we don't anticipate any issues</p> <p>9 with having service fully complete well in advance of the</p> <p>10 January 10th answer deadline.</p> <p>11 Second, we continue to have discussion with the</p> <p>12 committee about whether we can reach agreement on a</p> <p>13 consensual preliminary injunction. I know the committee has</p> <p>14 previously told the Court that those discussions are focused</p> <p>15 on information the committee believes it would need in order</p> <p>16 to agree to a consensual stay of the state court litigation.</p> <p>17 And last night we received the committee's proposed document</p> <p>18 requests. Those requests were more extensive than we were</p> <p>19 anticipating. They were 15 pages long and contained 117</p> <p>20 separate requests, and we're obviously still digesting those</p> <p>21 requests. I don't think it's worth going into the details</p> <p>22 now unless the Court has questions, but I did think it's</p> <p>23 worth noting that the requests are very broad, both in terms</p> <p>24 of topics and scope. And so while we're still hopeful that</p> <p>25 we'll be able to reach agreement, the breadth of their</p>	<p style="text-align: right;">Page 13</p> <p>1 negotiating over document requests. I mean, there will be</p> <p>2 discovery. The discovery will be broad -- appropriately</p> <p>3 broad -- and expeditious. I just don't understand the nexus</p> <p>4 between those two, and I'm frankly not willing just to</p> <p>5 resign myself to having a contested hearing. I will if it</p> <p>6 comes to that, of course. Perhaps Mr. --</p> <p>7 MR. STANG: Your Honor --</p> <p>8 THE COURT: Perhaps Mr. Stang would like to</p> <p>9 comment.</p> <p>10 MR. STANG: Thank you, Your Honor. James Stang</p> <p>11 for the committee.</p> <p>12 Your Honor, we are not expecting that the debtor</p> <p>13 will comply with all of those discovery -- with all those</p> <p>14 requests by the -- in time for the February 1 hearing. We</p> <p>15 have in other cases or in your cases, used the preliminary</p> <p>16 injunction stipulation as a means of obtaining information</p> <p>17 that we think is -- gives the nexus because they're asking</p> <p>18 for a stay -- an extraordinary stay -- against non-debtor</p> <p>19 parties and the discovery goes to, amongst other things,</p> <p>20 information about those third parties. So that's the nexus</p> <p>21 -- is that if you're going to have stay -- a litigation</p> <p>22 against third parties -- there should be conditions to that</p> <p>23 and the conditions should include discovery that is</p> <p>24 pertinent to those entities and, frankly, to the debtor.</p> <p>25 But we're not expecting that all of those requests</p>

<p style="text-align: right;">Page 14</p> <p>1 are going to be fulfilled by next hearing on the preliminary 2 injunction or the next time it expires. What we would be 3 looking for is a resolution as best as we can reach it on 4 the scope of the discovery and then commitments for rolling 5 productions, and if progress is being made, as we have done 6 in other cases, the stipulation has been continued. 7 But that's the nexus. You're asking us to stay. 8 You're asking plaintiffs to stay litigation against third 9 parties who've not made -- taken the big step to being in 10 Chapter 11. They want the protections and effect of the 11 automatic stay and there should be something in 12 consideration of that. That's the nexus, Your Honor. 13 THE COURT: All right. Thank you for that. I 14 mean, the practical reality is that today is November 18th. 15 Next week is Thanksgiving which hopefully you all will be 16 spending not with a lot of other people and then, you know, 17 the 10th will be upon us before we know it. So it's helpful 18 -- your explanation was helpful and it's encouraging that 19 you are amenable to a more surgical approach with good faith 20 continuing endeavors by the debtor to produce all the 21 documents that you reasonably require, but I very much 22 encourage to try to do both, to work on prioritizing, 23 refining the document requests as quickly as possible so 24 that we can -- well, first of all, enable the production to 25 begin such that you feel that there's sufficient progress</p>	<p style="text-align: right;">Page 16</p> <p>1 mindful of the Court's offer at the last status conference 2 to help sort out disputes that may arise in the course of 3 the negotiations. And to the extent it would help in this 4 negotiation, we certainly will take advantage of that. 5 THE COURT: All right. Very good. All right. So 6 should we turn to the shorthand -- my shorthand -- the 7 insurance adversary which is number 20-101227, Roman 8 Catholic Diocese of Rockville Centre versus Arrowood 9 Indemnity, et al? 10 MR. BERRINGER: Your Honor, this is John Berringer 11 of special counsel -- insurance counsel to the debtors and 12 I'm -- 13 THE COURT: Yes. 14 MR. BERRINGER: -- counsel in the adversary 15 proceeding. 16 THE COURT: Good morning. 17 MR. BERRINGER: The status of the -- good morning, 18 Your Honor. The status of the proceeding as of now is that 19 we have granted, subject to stipulations and Court approval, 20 a number of extensions of the time to answer so that the -- 21 and the carriers have been requesting that they all come -- 22 get the same date and it's, as I understand it, December 23 28th. So we have not had answers to the complaint yet from 24 any of the insurers. It's my understanding that a number 25 of the insurers have not -- insured defendants -- have not</p>
<p style="text-align: right;">Page 15</p> <p>1 that the stay can be extended. So I understand the nexus 2 but I also really want both paths to be pursued. The 3 debtor's replay brief is due on December 3rd. So you really 4 got about, you know, a week before Thanksgiving hits to kind 5 of get to a fork in the road and figure out which way we're 6 going to go on this. 7 If we're going to be having a contested hearing 8 over the stay on December 10th, we have a whole heck of a 9 lot of work to do because I will insist that we have that 10 hearing on Zoom and that will require a lot of preparation, 11 both on the part of the Court, the court staff, and the 12 parties to ensure that it will be technologically smooth. 13 So we're going to need to figure this out pretty quickly. 14 So I'll leave it there for now and before we sign off 15 for today, we're going to -- what I'd like to do is pick a 16 date for, as my former colleague Judge Gerber used to say, a 17 stop, look, and listen to hear where you are so we know what 18 to plan for. Is that acceptable? 19 MR. STANG: Your Honor, this is Mr. Stang. 20 Absolutely. 21 THE COURT: All right. 22 MR. DIPOMPEO: And Your Honor, this is Christopher 23 DiPompeo. That's also acceptable to us. And we're also -- 24 we're going to continue discussions. We do have a call 25 scheduled for later this week with the committee and we're</p>	<p style="text-align: right;">Page 17</p> <p>1 appeared. I believe that's primarily certain of the 2 participants in the London market policies at issue. 3 We understand and anticipate that there will a 4 motion to withdraw the reference made by one or more 5 insurers, presumably at the December 28th date for an 6 answer. The committee has indicated that they're going to 7 move to intervene. The debtor does not oppose that motion 8 to intervene, but we understand that Arrowood and perhaps 9 other insurers will be opposing the motion to intervene. 10 In terms of moving the case forward, we believe 11 that the motions by the debtor for a bar date and for 12 approval of a proof of claim form will be a precursor to 13 determining what discovery, if any, is needed by the 14 insurance companies beyond the information that will be 15 provided in the proof of claim form. So we believe that we 16 should not be moving forward with discovery in our case 17 until we see the parameters of the kind of information the 18 claimant -- the victims -- are going to have to put forward 19 in their proof of claim form which may -- hopefully will 20 address much of what the insurance companies need in order 21 to evaluate the value of the case. 22 And with all of that said, we think that the best 23 way to proceed at this point would be to set a new 24 conference date in the new year after the answers have been 25 filed and any motions have been made in terms of either</p>

<p style="text-align: right;">Page 18</p> <p>1 withdrawing the reference or intervening on behalf of the 2 committee. So we think that's sort of -- we're in limbo 3 right now waiting for further developments in terms of 4 answers and motion practice. Thank you. 5 THE COURT: Okay. And then I'm happy to hear from 6 -- I see Mr. or Ms. Coughlin has raised his or her hand. 7 MR. COUGHLIN: Yes. Good morning, Your Honor. 8 It's Kevin Coughlin of behalf of Arrowood. I just -- 9 THE COURT: Okay. 10 MR. COUGHLIN: -- want to comment briefly on 11 something Mr. Berringer has raised and that is the scope of 12 discovery. As Your Honor may or may not know, the insurers 13 and the Diocese have been in an unlitigated dispute for 14 almost two years and the insurers have been requesting 15 information from the Diocese that entire period. And those 16 requests by 95 percent have been unanswered and the Diocese' 17 position that the only discovery that's going to be needed 18 here is what I'd characterize as plaintiff's damages type 19 discovery to help full out the proof of claim 20 underestimates, respectfully, the scope of what the insurers 21 have been looking for and will be looking for. 22 There's no secret. This has been -- pedophilia's 23 been a problem in the Church for decades and decades, and we 24 have cases that will be before Your Honor as part of the 25 proofs of claim that go back decades. And insurers have the</p>	<p style="text-align: right;">Page 20</p> <p>1 would be to keep going as I would if the motion to withdraw 2 the reference has not -- had not been decided. So that's 3 just a statement of my general approach. Obviously, each 4 case is different but that's just what I would state for 5 everyone's edification. Whether or not the committee 6 intervenes is on a different track. I hear you on discovery 7 and, you know, would address that as and when any discovery 8 disputes in future would arise and are unable to be 9 resolved. 10 I see that someone on behalf of certain other 11 insurers has their hand raised. Mr. or Ms. Sugayan. 12 MS. SUGAYAN: Thank you, Your Honor. It's Cathy 13 Sugayan. I'm attorney at Clyde & Co. in the Chicago office 14 and I represent certain underwriters at Lloyd's London and 15 London Market Companies. 16 Just first off, we agree with Mr. Berringer and 17 thank the debtor. We do have an extension of time in which 18 to response and we -- London is considering the motion to 19 withdraw the reference. What I really wanted to get to is 20 the issue on discovery and it's a follow up to what Attorney 21 Stang was talking and also Attorney Coughlin. 22 We've been in a couple of these before -- not with 23 Jones Day or Reed Smith. I'm very familiar with Jim Stang. 24 We've been through a number of bankruptcies with him. But I 25 think it's really important to advise the Court that all the</p>
<p style="text-align: right;">Page 19</p> <p>1 intention of seeking discovery on what the Diocese knew, 2 when and what they did with respect to, for example, moving 3 priests from parish to parish and what was behind that. So 4 we envision a very robust discovery process once the case is 5 positioned after December 28th to develop those very 6 important defenses. So I think we should prepare of that, 7 with all due respect. Thank you, Your Honor. 8 THE COURT: May I ask -- thank you -- may I -- let 9 me catch up with both of you and sort this out. So who is 10 it that's -- I don't know if you know or if either of you 11 know -- who is it that's going to making a motion to 12 withdraw the reference? 13 MR. COUGHLIN: I can tell you, Your Honor -- this 14 is Kevin Coughlin again -- that's under consideration by my 15 client but we've not received final instructions yet. 16 THE COURT: Okay. And just for my edification -- 17 well, I'll leave that question unanswered. Obviously, a 18 motion to withdraw the reference is filed with the district 19 court and the district courts decides whether or not to 20 withdraw the reference. 21 I will tell you that in the absence of direction 22 to the contrary from the district court, the case is before 23 me until it's not and that means that the case will proceed 24 until a higher authority tells me that it doesn't. And that 25 includes continuing to conduct discovery and my intention</p>	<p style="text-align: right;">Page 21</p> <p>1 parties are pretty much looking for the same information. 2 The insurers want information from the claimants so as a 3 result one of the things we tried to do first off is work 4 with the creditors committee and also with the debtor to 5 work on a proof of claim form that everyone can kind of 6 agree with so everyone can get the information that we need 7 up front. It's like the most like less intrusive way, I 8 guess, to -- actually, least intrusive way -- to obtain 9 information from the survivors who we know it's a very 10 personal thing to them and it's difficult to provide this 11 information. And it's easier to do through a confidential 12 form. 13 THE COURT: May I interrupt you for a moment, 14 please? 15 MS. SUGAYAN: Sure. 16 THE COURT: You make a good point. And again, 17 each case is different and we have to be aware of that, but 18 are there not proofs of claim forms from other Diocese cases 19 that are good templates for what (indiscernible)? 20 MS. SUGAYAN: There are, Your Honor, and we will 21 go forward and do that. I guess I'm just trying to let the 22 debtor and debtor's coverage counsel and also Mr. Stand who 23 I've worked with before know that the carriers are 24 interested in being involved in this case. We'd like to 25 work with them upfront rather than having things filed and</p>

<p style="text-align: right;">Page 22</p> <p>1 then contesting and filing things after the fact. To the 2 extent that we can reach agreement earlier, I think it's 3 best for all parties.</p> <p>4 The other piece of information we need is 5 information from the Diocese and as Mr. Stang alluded to -- 6 I know, for example, in Rochester, the committee there 7 stipulated to a stay of proceedings against non-debtor 8 related entities which, by the way, happen to be additional 9 insureds under the London Market policies. So it behooves 10 us to try to bring everything together if we can. Our 11 insurance policies are a common asset of the debtor's estate 12 as well as these parishes. And so we sort of join the 13 committee in seeking the information it seeks from the 14 debtor with respect to, you know, the claims.</p> <p>15 THE COURT: All right. Thank you. Well, I'm 16 fully supportive of the continuing to talk to each other 17 approach, but I don't want anyone to mistake that -- and 18 I've said this before -- for any reluctance on my part to 19 decide disputes that are brought before me. So negotiation, 20 less paper, less litigation is good, but I'm absolutely 21 prepared to resolve disputes when they're teed up before me.</p> <p>22 Mr. Berringer, did you want to respond again to 23 any of that?</p> <p>24 MR. BERRINGER: Yes, just briefly, Your Honor, to 25 inform the Court that we were aware of the use of the proof</p>	<p style="text-align: right;">Page 24</p> <p>1 Todd Geremia from Jones Day.</p> <p>2 THE COURT: Yes. Hello, Mr. Geremia. How are 3 you?</p> <p>4 MR GEREMIA: I'm well. How are you, Your Honor?</p> <p>5 THE COURT: I'm okay.</p> <p>6 MR GEREMIA: So by these applications, the debtor 7 seeks retention of counsel, namely Otterbourg and a 8 financial advisor, Goldin, to assist its independent 9 advisory committee in moving forward to pursue what that 10 committee has already concluded and shared with the debtor, 11 our colorable claims for the benefit of the debtor. As Your 12 Honor knows, the U.S. Trustee and the official committee of 13 unsecured creditors has objected to these retention 14 applications.</p> <p>15 I will initially defer to Mr. Feldman for the 16 independent advisory committee to, among other things, set 17 out the relevant facts in support of these applications and 18 answer any questions that the Court has with respect to 19 those. And then I, on behalf of the debtor, can address any 20 remaining issues concerning her objections and the best 21 interest of the estate with respect to these applications.</p> <p>22 If that is good for Your Honor --</p> <p>23 THE COURT: All right.</p> <p>24 MR GEREMIA: -- we will proceed with Mr. Feldman.</p> <p>25 THE COURT: All right. I'll hear from Mr.</p>
<p style="text-align: right;">Page 23</p> <p>1 of claim form in other bankruptcies involving sexual abuse 2 and we have used those forms as a template. We have shared 3 the proof of claim form with counsel for the insurers and 4 hope to arrive at a form that will obviate the need for at 5 least some of the broad discovery that apparently the 6 insurers are seeking. And I -- you know, we're hopeful that 7 we can continue to refine that proof of claim form so it 8 will provide much of the information which I think the 9 insurers legitimately may need in order to access the case 10 and the value of the case in terms of ultimate resolution.</p> <p>11 THE COURT: Okay. All right. I think that's all 12 we might have on this. To the extent that folks are looking 13 for a date, I think the easiest thing to do as this 14 progresses a bit is just to reach out to Ms. Eisen and my 15 chambers and she can give you any dates that you require. 16 All right?</p> <p>17 MR. BERRINGER: Okay. That sounds good, Your 18 Honor.</p> <p>19 THE COURT: All right. Let me just ask for the 20 sake of good order, does anybody else wish to be heard with 21 respect to the status of the insurance adversary proceeding? 22 All right. At this point, we can move on to the contested 23 matters which are the Otterbourg retention and the Goldin 24 retention. And who am I hearing from from Jones Day?</p> <p>25 MR GEREMIA: Your Honor, can you hear me? This is</p>	<p style="text-align: right;">Page 25</p> <p>1 Feldman. Mr. Feldman, are you there?</p> <p>2 MR. FELDMAN: I am, Your Honor. Can you hear me?</p> <p>3 THE COURT: Yes, I can. Thank you.</p> <p>4 MR. FELDMAN: Great. Thank you. Peter Feldman, 5 Otterbourg PC, proposed counsel to the independent advisory 6 committee of the Diocese which I'll refer to as -- excuse me 7 -- the IAC to make it easier.</p> <p>8 Your Honor, I don't want to belabor the factual 9 background. It's set forth, I think, very clearly in the 10 declarations that were submitted by the chair of the IAC, 11 Mr. Arthur Gonzalez, but I do think that it is helpful to 12 place the retention applications in a context by going 13 through and discussing some of the background, and 14 particularly, to understand why the AIC considers it 15 imperative to its proper functioning for these applications 16 to be granted.</p> <p>17 As Your Honor is aware, the applications are 18 intended to retain Otterbourg as legal counsel and Goldin 19 Associates as financial advisor to the AIC and these were 20 the very firms that assisted the IAC in the pre-petition 21 extensive investigation that the IAC conducted. Needless to 22 say, as a result of those -- that year-long investigation, 23 these two firms have substantial information regarding the 24 investigation issues, including the colorable claims that 25 the AIC concluded existed.</p>

<p style="text-align: right;">Page 26</p> <p>1 Let me give some background to the IAC and the --</p> <p>2 I'm sorry --</p> <p>3 THE COURT: Mr. Feldman --</p> <p>4 MR. FELDMAN: Yes, ma'am. Yes, Your Honor.</p> <p>5 THE COURT: Let me interrupt you. Please assume</p> <p>6 that I've read the pleadings multiple times but I'm happy to</p> <p>7 hear your presentation. I have a number of questions but</p> <p>8 here's my first question.</p> <p>9 MR. FELDMAN: Yes.</p> <p>10 THE COURT: In the papers, a number of</p> <p>11 transactions were identified that have been identified by</p> <p>12 the IAC as appropriate for litigation or settlement --</p> <p>13 transfers that were made in the relevant period of time. I</p> <p>14 don't get a sense from the application the percent</p> <p>15 completion of the universe of transactions that the IAC was</p> <p>16 investigating. In other words, how much work is yet to be</p> <p>17 done on identifying additional colorable claims related to</p> <p>18 transactions?</p> <p>19 MR. FELDMAN: If I can break that down into two</p> <p>20 pieces, Your Honor.</p> <p>21 THE COURT: Okay.</p> <p>22 MR. FELDMAN: I'm sorry. Did I interrupt you?</p> <p>23 THE COURT: No, no, no. Go ahead.</p> <p>24 MR. FELDMAN: So there were several transactions</p> <p>25 that the IAC investigated because its investigatory mandate</p>	<p style="text-align: right;">Page 28</p> <p>1 \$2-1/2 million transaction. I cannot speak to that.</p> <p>2 THE COURT: Okay.</p> <p>3 MR. FELDMAN: It's not part of the IAC's mandate.</p> <p>4 THE COURT: It's not contemplated that the -- that</p> <p>5 hypothetically if the IAC were to continue that the IAC's</p> <p>6 mandate would be expanded to include transaction smaller</p> <p>7 than involving \$2.5 million?</p> <p>8 MR. FELDMAN: That is my understanding, Your</p> <p>9 Honor. We would -- the IAC, if continue, would be focused</p> <p>10 on the transactions that it already investigated and for</p> <p>11 which it found claims exist.</p> <p>12 THE COURT: Okay. All right. Thank you. I</p> <p>13 interrupted you. Please continue.</p> <p>14 MR. FELDMAN: Well, I will try and move forward.</p> <p>15 I did want to identify -- and I know the Court has read the</p> <p>16 papers -- but the -- what the Diocese did was it created a</p> <p>17 committee through its resolution. It's a committee of the</p> <p>18 board itself. This is set forth in the resolution which is</p> <p>19 attached to the papers of the -- I think it's in Mr.</p> <p>20 Gonzalez's reply declaration. I think it's that docketed at</p> <p>21 153.</p> <p>22 THE COURT: No. I get all this. This is not --</p> <p>23 by statute, the board can only consist of the bishop and two</p> <p>24 other individuals and that this is -- who's ever shuffling</p> <p>25 papers, put your phone on mute, please -- and that this is a</p>
<p style="text-align: right;">Page 27</p> <p>1 was to investigate these affiliated transactions for filiate</p> <p>2 transactions with a value of \$2-1/2 million or more that</p> <p>3 were conducted in the January 1, 2014, forward. And that</p> <p>4 resulted in not -- sort of a handful of transactions.</p> <p>5 Transaction involving the cemetery assets and related funds,</p> <p>6 the transfer of certain real property that had been owned by</p> <p>7 the Diocese that was transferred to the seminary</p> <p>8 corporation. There was some additional assets and -- that</p> <p>9 were transferred to -- the board of education is it's</p> <p>10 called. It's a separate entity. And there was a smaller</p> <p>11 transaction -- 3 million -- that was made to the Catholic</p> <p>12 Foundation. Those are the transactions that were</p> <p>13 investigated because they were in the range and the \$2-1/2</p> <p>14 million value or more.</p> <p>15 I'm not aware of any other transactions that fell</p> <p>16 onto that category and therefore, the focus of the IAC was</p> <p>17 on those several -- there was several transactions in</p> <p>18 respect of each what are deemed -- like the cemetery</p> <p>19 transaction has several -- but that was the focus of the IAC</p> <p>20 -- those four transactions, if I can call them that.</p> <p>21 There are other transactions that may exist -- and</p> <p>22 I can't speak to that -- that were of a value of less than</p> <p>23 \$2-1/2 million. As to those, the IAC did not investigate,</p> <p>24 was not part of its mandate, and they didn't have the -- the</p> <p>25 IAC had no delegated authority with respect to the less than</p>	<p style="text-align: right;">Page 29</p> <p>1 creation -- you know, a creation of a committee and, you</p> <p>2 know, quote/unquote, of the board that has a delegation from</p> <p>3 the Diocese to investigate the transactions. So I</p> <p>4 understand the architecture of this. The difference, of</p> <p>5 course, is that unlike other cases in which there's a so-</p> <p>6 called special committee, the special committee is</p> <p>7 ordinarily comprised of independent directors who sit on the</p> <p>8 board of the debtor. That's not the case here and that</p> <p>9 appears to be because that's precluded by statute. At least</p> <p>10 that's the way I understand it.</p> <p>11 MR. FELDMAN: That is correct, Your Honor. The</p> <p>12 statute that formed the Diocese, and Mr. Geremia will get</p> <p>13 into this, I'm sure as well as the bylaws of the Diocese,</p> <p>14 prescribe a limited board of the three persons. And the --</p> <p>15 but beyond that, the members of the IAC are not directors,</p> <p>16 as Your Honor noted, and they don't have director duties.</p> <p>17 They don't -- they're not involved in the types of matters</p> <p>18 that directors get involved with -- setting corporate or in</p> <p>19 this case, diocesan policies, procedures dealing with</p> <p>20 personnel, finances, and the like.</p> <p>21 They have a very discrete mandate, one that is</p> <p>22 very limited in scope. So -- and although there are more --</p> <p>23 it is more typical for special committees to be comprised of</p> <p>24 directors, perhaps in this case, that's not so, but I don't</p> <p>25 think there's any basis that there should a difference in</p>

<p style="text-align: right;">Page 30</p> <p>1 the type of persons who are -- who comprise the special 2 committee. The fact that some of directors and some aren't 3 should not, I don't think, make a difference for the ability 4 of the debtor to conduct an investigation as it's done in 5 pre-petition period and to pursue these claims for the 6 benefit of the estate. And there's at least one of the 7 matters that we've attached to our -- 8 THE COURT: Well, you haven't -- you're rather 9 assuming the conclusion that you want. I mean, that's the -- 10 - that is the question. That is the very question. The -- 11 of 327 retention and to base it upon precedent -- the 12 precedents are special committees comprised of members of 13 the board of directors of the debtors. So we can't simply 14 jump to the conclusion that, so, you know, it should be fine 15 here, notwithstanding the fact that these individuals are 16 not members of the board because they cannot be. That 17 assumes the conclusion and the resolution of the very issue 18 that I'm going to be struggling with here today. 19 MR. FELDMAN: There is at least one matter which I 20 believe to be the Allied Holdings matter where at least one 21 of -- and I grant you, Your Honor, most of the cases in the 22 orders that we've attached to the paper that we submitted 23 are of special committees composed of directors. At least 24 one, the Allied Holdings matter, and at least one of the two 25 members of that committee who was not a director -- he was a</p>	<p style="text-align: right;">Page 32</p> <p>1 personnel. 2 We interviewed senior diocesan personnel, 3 including both of the bishops. The bishop who was involved 4 prior to January 2017 and Bishop Barres the current bishop - 5 - we interviewed -- the COO and general counsel Mr. Renker - 6 - interviewed the CFO, Mr. Doodian and we interviewed the -- 7 because insurance is important, we interviewed Mr. Chapin, 8 the head of the risk management. We spoke numerous times to 9 the financial consultants for the debtor -- then the Diocese 10 not the debtor -- and spoke to their insurance professionals 11 as well. So it was a very complete investigation and as 12 I've noted, there were no -- there was no oversight. There 13 was no input or supervisory control by the Diocese. 14 I think at bottom, the -- I think it should be 15 clear that this is - that the -- in addition to be 16 independent, I should point out -- it's in the papers but -- 17 each of the -- and this is part of the issue the Court 18 raised -- each of the IAC members is an independent 19 contractor and -- but nonetheless, it engaged in a thorough 20 investigation and one which, at this juncture, the IAC has 21 been delegated by the debtor to pursue the claims that it 22 found existed. Those claims the IAC is ready to proceed to 23 pursue immediately if the Court were to retain professionals 24 for it. That's the issue. 25 If the Court -- if the IAC doesn't continue -- if</p>
<p style="text-align: right;">Page 31</p> <p>1 member of the financial consulting firm of Duff & Phelps -- 2 and it appears that the other party was an officer of an 3 affiliate of the debtor but not necessarily a director. 4 It's unclear so I can't represent one way or the other. But 5 at least in that one instance, there is a -- that that 6 instance involved a non-director as a member of a special 7 committee. 8 But I understand the Court's point that that's -- 9 typically, you're going to see it because you can add 10 members to the board, let's say, but in this instance, it's 11 not how it proceeded. I understand the Court's point. I 12 know Mr. Geremia will speaking to that. 13 I'd like to just point out then, since the Court 14 is aware of the fact that the IAC conducted an extensive 15 investigation that involved countless -- review of countless 16 documents that reviewed -- and I should point out the 17 Diocese, although had no supervisory role and no input and 18 did not provide direction or any influence with respect to 19 the investigation or the IAC's conclusions, it did -- in 20 fact, it was very cooperative. It provided all the 21 documentation requested and we had substantial documents, 22 both emails -- I think there was -- I don't know if it's 23 pages or documents. I get confused by the manner in which 24 these are counted. But there are well in excess of 200,000 25 pages, I believe, excess of emails of senior diocesan</p>	<p style="text-align: right;">Page 33</p> <p>1 it's -- if these professionals -- and it's my firm and the 2 Goldin firm -- because of the one year's worth of 3 investigatory knowledge that we acquired -- that these firms 4 have acquired -- if the Court is not to retain these firms, 5 then I think a great deal of knowledge, expertise, and cost 6 will go out the window. 7 I don't mean to suggest that other parties can't - 8 - other firms can't come in and learn it, but I do think 9 there's a steep learning curve. I think that there will be 10 time lost and great expense. I think that it would be -- 11 it's not surprising that in Mr. Gonzalez's declaration he 12 said that the retention of these two firms is essential to 13 the IAC's continued process in this case to pursue these 14 claims on behalf of the estate. 15 And so, with that, Your Honor, in view of the 16 Court's knowledge of the record before it, I don't see any 17 reason to belabor and duplicate what the Court knows. I'll 18 turn this over to Mr. Geremia or back to Mr. Geremia. 19 THE COURT: All right. Thank you very much. Mr. 20 Geremia? 21 MR GEREMIA: Thank you, Your Honor. And I will 22 start with the issue that Your Honor just raised now which 23 is the status of the IAC. And just to, I think, focus that 24 issue, I want to turn to what the committee -- the UCC's -- 25 objection is to these retention applications.</p>

<p style="text-align: right;">Page 34</p> <p>1 And that objection is -- it's on page 3 of the 2 sur-reply -- that the independent advisory committee is not 3 a committee of the board. And as Your Honor noted and as 4 Mr. Feldman noted, there is, in this context, the board's -- 5 the Diocese board of Trustees as prescribed by statute to 6 three individuals, the bishop, the vicar general, and the 7 chancellor, and the IAC members are none of those. But the 8 sur-reply relies on a provision of a New York not-for-profit 9 law that overlooks and cites only in a footnote a provision 10 of that law that we believe disposes of this application and 11 under which it should be overruled.</p> <p>12 That is, New York not-for-profit law, section 13 712(e) which applies to the Diocese Corporation provides, 14 and I'm quoting here: Committees other than committees of 15 the board, whether created by the board or by the members, 16 shall be committees of the corporation. So the IAC, in 17 accordance with not only the statute but the board 18 resolution that created it and the offer letters that were 19 extended to the IAC members, is a committee of the Diocese 20 board of Trustees.</p> <p>21 That, I think, disposes of the committee's 22 objection and answers the question that Your Honor raised is 23 a concern that this special committee is not a committee of 24 the board. It is by statute by New York not-for-profit law. 25 And as Mr. Feldman noted, the board resolution is in</p>	<p style="text-align: right;">Page 36</p> <p>1 The IAC has already determined that the claims are 2 colorable so it has every plan and intention to move forward 3 with respect to the claims and to authorize the IAC to do 4 that. And in any event, the sur-reply walks through a 5 number of cases --</p> <p>6 THE COURT: But the claims will involve, 7 generically, seeking the return of properties. Just 8 generically. Right? Or damages or some kind. Right?</p> <p>9 MR GEREMIA: That is correct.</p> <p>10 THE COURT: Okay. And the basis of those claims 11 is that it was improper and consistent with law, however you 12 want to characterize it, for the Diocese to have transferred 13 those properties. Correct?</p> <p>14 MR GEREMIA: I could defer to Mr. Feldman for a 15 characterization of them because he and his committee but in 16 general terms --</p> <p>17 THE COURT: I mean, it's a transfer that you want 18 to seek to undo or get value back in the amount of the 19 transfer. Right?</p> <p>20 MR. FELDMAN: Your Honor, this is Peter Feldman 21 from Otterbourg. That is correct. We want to recover 22 value.</p> <p>23 THE COURT: Right. So -- right. So you're going 24 to have a special committee of the board of the Diocese 25 comprised of people who were selected and are paid by the</p>
<p style="text-align: right;">Page 35</p> <p>1 accordance with this. The second whereas clause -- it's a 2 long sentence but reading in the middle of the first 3 sentence, states that, the board shall establish a special 4 advisory committee of the board, in parenthesis, the 5 independent advisory committee, consisting of the 6 independent members that were named. And as we noted in our 7 papers -- actually, in the letter that we submitted in 8 response to the request to submit a sur-reply -- the offer 9 letters that went to each of the members similarly states 10 for each of them that the IAC is a committee of the Diocese 11 board. And really is the extent of the UCC's substance to 12 the objection, that the IAC is not part of the Diocese. And 13 it just frankly is by statute.</p> <p>14 The committee points to the fact that -- and this 15 is the only context in which the statute was referenced in 16 this paper -- that no such committee shall have the 17 authority to bind the board. That is not the question, 18 respectfully, that's before the Court in connection with 19 these applications. The question is whether the Diocese 20 should be permitted to retain these professionals to assist 21 the IAC. And in any event, it is, on this record, a moot 22 and hypothetical question because the Diocese has already 23 conveyed in open court to the Court and to the committee 24 that it wants the IAC to pursue these claims on behalf of 25 the Diocese.</p>	<p style="text-align: right;">Page 37</p> <p>1 Diocese suing the Diocese. Right?</p> <p>2 MR GEREMIA: Yes, Your Honor. The -- yes. That 3 is correct and that -- I'm sorry.</p> <p>4 THE COURT: And that's what it's going to be? 5 You're going to have a board of individuals selected and 6 paid by the Diocese, represented by firms paid by the 7 Diocese suing the Diocese. And --</p> <p>8 MS. BALL: Your Honor, no.</p> <p>9 THE COURT: Excuse me.</p> <p>10 MS. BALL: Your Honor --</p> <p>11 THE COURT: Excuse me. Those are the -- that is 12 the construct. Those are the facts. Ms. Ball, if you'd 13 like to speak, I'd appreciate not being interrupted.</p> <p>14 MS. BALL: My apologies, Your Honor.</p> <p>15 THE COURT: Go ahead.</p> <p>16 MS. BALL: Your Honor, I just -- one clarification 17 and Mr. Feldman, I would defer to you. This is -- hindsight 18 is always 20/20 but the lawsuit here, it's not the Diocese 19 suing the Diocese. The lawsuit here, these are, as Mr. 20 Stang has pointed out to Your Honor, these are separate 21 affiliates.</p> <p>22 THE COURT: No, I understand the transfer --</p> <p>23 MS. BALL: This situation -- so it is not the 24 Diocese that would be the defendant.</p> <p>25 THE COURT: I understand that the transferees are</p>

<p style="text-align: right;">Page 38</p> <p>1 the affiliates. I understand that.</p> <p>2 MS. BALL: This is much like any other affiliate</p> <p>3 transfer in many other cases where with hindsight, judging</p> <p>4 with -- by facts that were developed, there may be claims.</p> <p>5 Whether it was Sears and Mr. Lampert or in any other context</p> <p>6 in many of the cases cited by Mr. Feldman, but I had -- only</p> <p>7 want to point out I did not want Your Honor to think that</p> <p>8 the Diocese was going to be on both sides of the V in any</p> <p>9 such claims.</p> <p>10 Mr. Feldman can concur.</p> <p>11 MR. FELDMAN: Yes. I was going to -- yes, I will</p> <p>12 concur. This is Peter Feldman on behalf of the IAC and I</p> <p>13 guess proposed counsel on behalf of the IAC. Yes, I mean,</p> <p>14 each of the four separate matters that were investigated --</p> <p>15 transactions -- are all to parties -- entities -- that are</p> <p>16 separately incorporated. There is a relationship to the --</p> <p>17 there is a relation to the Diocese. I think the bishop may</p> <p>18 have some involvement in one or more of these but each of</p> <p>19 them is a separate entity, in fact, represented by separate</p> <p>20 counsel. I believe certain of those counsel are on the call</p> <p>21 today. So the -- we've always looked at this, Your Honor,</p> <p>22 as -- precisely as Ms. Ball has described it. It's a</p> <p>23 lawsuit by the Diocese as a debtor in possession against</p> <p>24 entities that are affiliates of the debtor but who -- that</p> <p>25 are separate entities, separately represented and -- so it</p>	<p style="text-align: right;">Page 40</p> <p>1 freed them of conflicts to pursue the claims, which as we</p> <p>2 set out in our papers, under the code, the debtor is a</p> <p>3 fiduciary to the estate and has the obligation to</p> <p>4 investigate the estate's claims. So it is in furtherance of</p> <p>5 the fiduciary duty to the estate the debtor -- I'm sorry,</p> <p>6 Your Honor. Is that -- I got some feedback. I thought you</p> <p>7 were speaking.</p> <p>8 THE COURT: No, it wasn't me.</p> <p>9 MR GEREMIA: That the debtor is seeking to retain</p> <p>10 professionals that the IAC needs to continue its</p> <p>11 investigation and to pursue the claims which the Diocese</p> <p>12 wants the IAC to do to either negotiation or, if necessary,</p> <p>13 commencing of litigation to do that.</p> <p>14 THE COURT: All right. Well, it's something that</p> <p>15 you said reminded me of something that I wanted to say at</p> <p>16 the outset, but let me say it now than letting the moment</p> <p>17 pass.</p> <p>18 This is about whether or not the retention of</p> <p>19 these firms is permissible under the bankruptcy code and</p> <p>20 appropriate in this case. This has nothing whatsoever to do</p> <p>21 with the three individuals who comprise the IAC, all of whom</p> <p>22 are well-known to me and are -- have impeccable reputations</p> <p>23 and decades of experience. So this has nothing whatsoever</p> <p>24 to do with any questions or concerns that I have about any</p> <p>25 of those individuals and their dedication to the task that</p>
<p style="text-align: right;">Page 39</p> <p>1 wouldn't be the Diocese suing the Diocese. It would be the</p> <p>2 Diocese suing these other entities.</p> <p>3 THE COURT: All right. Well, let's pick up where</p> <p>4 I interrupted Mr. Geremia sometime ago.</p> <p>5 MR GEREMIA: Thank you, Your Honor. And, you</p> <p>6 know, just to reframe it. The only question -- the only</p> <p>7 substance behind the UCC's objection is the notion that the</p> <p>8 IAC is not a committee of the board so it's not really the</p> <p>9 Diocese that is requesting that these professionals be</p> <p>10 retained. That's simply not true under the facts and under</p> <p>11 the very statute that the committee invokes in its sur-reply</p> <p>12 which makes very clear that a committee other than a</p> <p>13 committee of the board that is created by the board shall be</p> <p>14 regarded as a committee of the corporation, so a committee</p> <p>15 of the Diocese.</p> <p>16 And that is -- you know, as Your Honor and Mr.</p> <p>17 Feldman and Ms. Ball are aware, special committees of the</p> <p>18 board are frequently appointed in bankruptcy cases to</p> <p>19 investigate intra-affiliate transactions such as these. The</p> <p>20 whole notion that's behind the IAC was to appoint</p> <p>21 individuals -- set up a structure whereby we had a conflict-</p> <p>22 free committee that was pursuing the investigation of these</p> <p>23 claims. We appointed members that have no prior affiliation</p> <p>24 with the Diocese, that have no conflict, that have stellar</p> <p>25 reputations. So to be able to do this in a manner that</p>	<p style="text-align: right;">Page 41</p> <p>1 they have undertaken and the seriousness and the confidence</p> <p>2 with which they will continue to pursue it. So I don't want</p> <p>3 there to be any sense or any implication that I'm thinking</p> <p>4 about it in those terms. I'm approaching this as whether or</p> <p>5 not this is permissible under the bankruptcy code.</p> <p>6 I think it would be a good time now to hear from</p> <p>7 Mr. Stang but also there has been an objection lodged by the</p> <p>8 Office of the U.S. Trustee. I'm scrolling to see. I do see</p> <p>9 Mr. Zipes is on the line. But, Mr. Stang, I'd like to hear</p> <p>10 from you first or whoever it is on your team will speak to</p> <p>11 this matter.</p> <p>12 MR. STANG: Thank you, Your Honor. James Stang,</p> <p>13 Pachulski Stang Ziehl & Jones for the committee.</p> <p>14 Your Honor, I want to start with where you just</p> <p>15 left off and we say this in our opening opposition. This</p> <p>16 has absolutely nothing to do with the skills, the</p> <p>17 reputation, the integrity of Judges Gonzalez, Cyganowski or</p> <p>18 Mr. Goldin. You focused on -- nothing at all. These people</p> <p>19 are impeccably qualified, but the problem is that the IAC is</p> <p>20 not empowered under New York law to go beyond the role of</p> <p>21 investigator. And you -- these employment applications have</p> <p>22 begged that question from the very beginning and you</p> <p>23 identified this at the first status conference when you</p> <p>24 said, in effect, I wanted to know more about what this</p> <p>25 committee is. And after several pleadings, we all have</p>

<p style="text-align: right;">Page 42</p> <p>1 gotten down to two sentences from the New York -- from New 2 York law -- as to how this matter should be decided. And as 3 counsel pointed out, it's under subsection (e) of section 4 712 of the non-profit corporation law. There is no 5 question, no debate -- it would be a physical impossibility 6 for the IAC to be a committee of the board. The only thing 7 it can be is a committee of the corporation, and the statute 8 is clear. No such committee shall have the authority to 9 bind the board.</p> <p>10 And, in fact, if you go back to the charter which 11 I will try to pull up -- I'm not good with multiple screens 12 -- but the charter in fact says, and this is an exhibit to 13 the employment applications and this is the -- at docket 60, 14 Your Honor. It's 60, hyphen 3, page 25 of 49. Go down to 15 the --</p> <p>16 THE COURT: Hold on, Mr. Stang. Let me try to -- 17 let me catch up with you.</p> <p>18 MR. STANG: Sorry. Sorry, Your Honor.</p> <p>19 THE COURT: The charter is Exhibit B to the Goldin 20 application?</p> <p>21 MR. STANG: I'm showing it as Exhibit -- I'm in 22 the Otterbourg application, Your Honor, which is docket 60. 23 It is Exhibit -- across the top where it shows what -- you 24 know, the docket number, it says, Exhibit C and it says page 25 25 of 49.</p>	<p style="text-align: right;">Page 44</p> <p>1 in favor of the Diocese to pursue to such claims including 2 renegotiation -- well, action -- including commencement of 3 litigation on behalf of the Diocese. So the charter --</p> <p>4 MR. STANG: Your Honor, I read that. I'm sorry.</p> <p>5 THE COURT: Yep. Go ahead.</p> <p>6 MR. STANG: I read that and I understand what it 7 says. But they -- it can't do that. The board cannot 8 circumvent New York law.</p> <p>9 THE COURT: But whoever (indiscernible) I'm sorry. 10 Whoever is typing, please put your phone on mute. 11 Everybody, please, put your phones on mute unless you're 12 talking to me. Thank you.</p> <p>13 MR. STANG: The board -- thank you -- the board 14 can only do what New York law allows it to do. And you're 15 right. Paragraph 3 goes beyond what New York law allows the 16 board to do in a committee structure. This is, to me, 17 really clear. It can only be one of two things: the 18 committee of the board, which we know this -- the IAC -- is 19 not and a committee of the corporation.</p> <p>20 When the debtor said in its original -- or sorry - 21 - when the employment application said it's a committee of 22 the debtor. It's a special committee. It's really 23 sidestepping the issue. It begs the question of what -- or 24 it doesn't really answer the question -- what is the IAC? 25 So as a committee of the corporation, it was certainly</p>
<p style="text-align: right;">Page 43</p> <p>1 THE COURT: Okay. Hold on. Let me catch with 2 you, please.</p> <p>3 MR. STANG: Okay.</p> <p>4 THE COURT: Okay. I'm with you. Go ahead. Thank 5 you.</p> <p>6 MR. STANG: And so if you go to that -- to the 7 bottom of roman numeral II which is captions, duties, 8 responsibilities, and authorities, subsection A has four 9 subparts and the last one really highlights the relationship 10 of this committee to the debtor. Communicate its 11 investigative findings and analysis with the board -- which 12 has been done -- and make such recommendations -- I want to 13 underscore recommendations -- for addressing any such 14 findings and analysis as it deems appropriate.</p> <p>15 Now the -- this really highlights that this entity 16 -- the committee of the corporation -- has restrictions of 17 what it can do. I don't know if that's what they were -- 18 what they were intending --</p> <p>19 THE COURT: But Mr. Stang --</p> <p>20 MR. STANG: Yes.</p> <p>21 THE COURT: -- let me direct your attention to 22 A(3).</p> <p>23 MR. STANG: Yes. I understand.</p> <p>24 THE COURT: In the (indiscernible) committee 25 decides that any transaction give rise to a colorable claim</p>	<p style="text-align: right;">Page 45</p> <p>1 appropriate for it to investigate the avoidance transactions 2 that have been highlighted by Mr. Feldman, but that's as far 3 as it can go.</p> <p>4 So, to me, the real question -- and this is really 5 the focus of Mr. Feldman's presentation and I think the 6 debtor's -- which is, we have spent -- we meaning the debtor 7 -- I think it's close to \$2 million on this investigation 8 between the fees to the IAC members, the fees paid to 9 Otterbourg, and the fees paid to the Goldin firm. And I 10 suspect and you have said this or intimated it, at least I 11 read it as -- between the lines -- how do we preserve the 12 value of this investigation? How do we stop throwing the 13 baby out with the bath water?</p> <p>14 And I think the answer is to that is really 15 simple. They complete their investigation. Maybe they have 16 completed it. It sounds like they have, but I'm not going 17 to speak for the IAC on that regard, and then they work with 18 the appropriate party -- whoever that may be -- to pursue 19 through negotiation or if need be, litigation, the 20 resolution of these claims.</p> <p>21 The debtor said in its pleadings that the 22 committee is trying to turn this into a standing motion and 23 we're not. This is not what's before you. We're not 24 pretending it is. Now the Diocese has said repeatedly that 25 it was so conflicted on these -- on this investigation and</p>

Page 46	Page 48
<p>1 the other responsibilities of the IAC that it needed to have 2 an independent committee. Maybe down the road that will be, 3 in part, a basis for a standing motion, but we're not there 4 yet.</p> <p>5 So how do we keep the value of what the Otterbourg 6 firm, Mr. Goldin's firm, and the IAC have done? We have 7 asked in our discovery requests for information about these 8 -- basically, the IAC's tasks. We would -- we're not asking 9 the IAC to be disbanded. We would go to the IAC and ask to 10 consult on their investigation. And so if you look at the 11 employment order that has been proposed, there are parts of 12 it which are absolutely fine from the perspective of the 13 committee.</p> <p>14 What's not okay from our perspective are the 15 provisions, and I think in the application, if you go up to 16 the body of it, Your Honor, because the order just says 17 motion granted. But if you go to the body of the applicant, 18 and I'm in the Otterbourg application, Your Honor, and this 19 is at page --</p> <p>20 THE COURT: Okay, what page?</p> <p>21 MR. STANG: Let's see, I'm at Document 60-2, it is 22 60(b) -- I'm sorry, Exhibit B, Page 407.</p> <p>23 THE COURT: Yes, I'm there.</p> <p>24 MR. STANG: It says, continuing the IAC's review. 25 And determine whether it gives rise. Now, maybe that's been</p>	<p>1 or Mr. Geremia talking. I was quoted a provision of the New 2 York Not For Profit Corporation Law that was characterized 3 as being dispositive of your objection. Do you recall that?</p> <p>4 MR. STANG: Yes, Your Honor.</p> <p>5 THE COURT: Can you run -- can you run back 6 through that and explain to me why you disagree with that 7 argument or statement?</p> <p>8 MR. STANG: Well, because I think they were -- I 9 don't know, they were being a little vague in their words. 10 Just, we can all turn to Section 712(e). There are two 11 things. There's a committee of the board, and there's a 12 committee of the corporation. That's what E says. And the 13 second sentence of E says, no such committee shall have the 14 authority to bind the board.</p> <p>15 THE COURT: I'd like to read along with you. Can 16 you tell me where I find this? Is this in your surreply?</p> <p>17 MR. STANG: Yes, Your Honor. It is footnoted on 18 Page 4, 4 of 8. It is in Paragraph 5.</p> <p>19 THE COURT: Paragraph 5.</p> <p>20 MR. STANG: And it's the last -- the whole 21 paragraph addresses it, but the last sentence.</p> <p>22 MR. GEREMIA: No, I don't believe it's quoted in 23 there, but that could be part of the issue.</p> <p>24 MR. STANG: Well, it's footnoted.</p> <p>25 THE COURT: I'm looking at this paragraph, and let</p>
Page 47	Page 49
<p>1 finished, maybe it hasn't. That is an appropriate thing for 2 a committee of the corporation to do. B and C, which are 3 pursue the claims, and then prepare the necessary memorandum 4 related to pursuing the claims, we think is beyond -- what 5 I'm saying, is beyond the scope of the IAC should be doing, 6 and therefore beyond the scope of what its professionals 7 should be doing.</p> <p>8 And then D, E and F, taken within the context of B 9 and C being stricken, are also okay. So the investigation, 10 I don't know how much is left. I couldn't tell from what 11 Mr. Feldman said, how -- I thought you had asked him, what 12 percentage is still outstanding, but whatever. If they're 13 done, they're done. If they're not done, the expenses and 14 cost of completing it will be subject to fee applications 15 and will be subject to a reasonableness standard.</p> <p>16 But that's as far as it can go. And whether the 17 Debtor picks up the issue of pursuing these through properly 18 hired professionals, or the committee does it, or some other 19 person appointed by the Court does it, that's not what we're 20 talking about today. But we don't lose the value of what 21 they've done.</p> <p>22 THE COURT: Okay, I have a number of questions, 23 maybe that are not all just for you. But --</p> <p>24 MR. STANG: You can start with me.</p> <p>25 THE COURT: I can't recall if it was Mr. Feldman</p>	<p>1 me just -- I just want to get this point very clear. And 2 I'm looking at it, it's the surreply that the committee 3 filed. it's entered at Docket 159.</p> <p>4 MR. STANG: Yes, Your Honor.</p> <p>5 THE COURT: Right? Am I at the right spot? Okay, 6 and it said it's a requirement that a committee of a board 7 contains three directors. It's not (indiscernible) rule, et 8 cetera, et cetera, under New York law. A not-for-profit 9 corporation's directors are charged with managing this 10 corporation. Nothing in the New York Not For Profit Law 11 permits committees of non-directors to bind the board with 12 their decisions, merely because such non-directors may have 13 contractual, et cetera.</p> <p>14 Okay, and then you drop a footnote to Section 15 712(e), while the law permits the creation of committees of 16 non-directors, such committees are not permitted to bind the 17 board with their decisions, and therefore can assume only 18 advisory roles.</p> <p>19 MR. STANG: That's it, Your Honor.</p> <p>20 THE COURT: Okay. All right. Now, my next 21 question is, so when you took me through the Otterbourg 22 application, so I'm a little confused. Because what you're 23 suggesting is that your issue is not with the continuation 24 of the IAC itself, and continuing to do work within the 25 scope of investigating the claims. But you're drawing the</p>

<p style="text-align: right;">Page 50</p> <p>1 line at hiring the professional firms to pursue the claims, 2 right?</p> <p>3 MR. STANG: Yes, Your Honor. I think where maybe 4 some of the confusion is, they -- the Debtor insists that 5 this is a committee of the board. And what we have said is, 6 you can call it what you want, but it isn't a committee of 7 the board. You can keep on calling it that if you want, but 8 it's only -- it can only exist as a committee of the 9 corporation. Calling it committee of the board doesn't make 10 it such. The law tells you what it is.</p> <p>11 And because the membership doesn't, you know, 12 isn't in accordance with the statute, it can only be one 13 other thing. And that has advisory powers, which is what we 14 think in the employment order would be permitted. Again, 15 we're not seeking to disband the IAC, we're challenging the 16 characterization of it as a committee of the board.</p> <p>17 MR. GEREMIA: Your Honor, if I may?</p> <p>18 THE COURT: Yes, go ahead.</p> <p>19 MR. GEREMIA: It is a committee of the diocese. 20 That is clear under 712(e). And the whole reason for this - 21 -</p> <p>22 THE COURT: Now, you -- do take me back. You show 23 me where -- what that is based on.</p> <p>24 MR. GEREMIA: That's based on 712(e), that we were 25 just reading from. And I don't know if Your Honor has it in</p>	<p style="text-align: right;">Page 52</p> <p>1 we're really running around in a circle here. In the 2 special committee cases that are well familiar to me and to 3 all of you, the special committee is not a special committee 4 of the corporation; it is a special committee of the board.</p> <p>5 Mr. Stang is telling me that this is a committee 6 of the corporation, and you've now just told me that it is a 7 committee of the diocese. So the diocese here is the 8 corporation. So this is not a special committee of the 9 board. And based on those --</p> <p>10 MR. GEREMIA: It's a committee of the diocese -- 11 sorry.</p> <p>12 THE COURT: And based on 712(e), it can only 13 advise. That's the language that I just read from the 14 statute.</p> <p>15 MR. GEREMIA: That is, I think I have two 16 responses to that point, because that's where the objection 17 has come down to, essentially, is the advisory 18 characteristic of the IAC. And number one, that is at best 19 a hypothetical question, but really a moot question, because 20 the diocese has already made clear that it is going to 21 pursue these claims, and that it will authorize the IAC to 22 pursue these claims. So the notion that the board is going 23 to pursue the claims --</p> <p>24 THE COURT: But the statute says -- I'm sorry, 25 hold on, hold on. 712(e) says, "Committees other than</p>
<p style="text-align: right;">Page 51</p> <p>1 front of you, because it wasn't quoted in the surreply 2 letter, I can read --</p> <p>3 THE COURT: Is it in your -- is it in your letter?</p> <p>4 MR. GEREMIA: No, Your Honor. Our letter was 5 submitted before the surreply. This came up only in 6 connection with the surreply, which we have not responded to 7 in writing.</p> <p>8 THE COURT: I'm sorry. Okay, bear with me. I 9 apologize. I would like to pull up a document where I can 10 read what you're about to quote back to me. Because you 11 folks are not on the same page here. Mr. Stang is very 12 clearly saying that this is a committee of the corporation, 13 and you are very clearly saying that it's a committee of the 14 board. So let me --</p> <p>15 MR. GEREMIA: I'm sorry, it's a committee -- I 16 think it's a distinction without a difference. It's a 17 committee of the diocese. The basis for the objection is 18 this is not the diocese asking for these professionals, and 19 that is simply not true. It's the diocese -- it's a 20 committee of the dioceses that is asking for these 21 professionals. And is in pertinent respect, no different 22 than multiple situations where special committees of Debtors 23 are permitted to have professionals to investigate and 24 pursue avoidance claims, and that's what this is about.</p> <p>25 THE COURT: But you know, we're really chasing --</p>	<p style="text-align: right;">Page 53</p> <p>1 committees of the board" -- so we now seem to agree that 2 this IAC is not a committee of the board. Which, you both 3 just said it. It's a committee of the corporation, or it's 4 a committee of the diocese. So it's not a committee of the 5 board. "Committees other than committees of the board, 6 created by the board or by the members shall be committees 7 of the corporation. No such committee shall have the 8 authority to bind the board." And now what you're telling 9 me is, never mind what the statute says, the IAC can bind 10 the board.</p> <p>11 MR. GEREMIA: I'm not saying never mind what the 12 statute says, Your Honor, I'm saying it's a moot question, 13 because the diocese, as we've already conveyed, has accepted 14 the recommendation of the IAC and intends to pursue these 15 claims. And it wants professionals to do that, which is, it 16 is frankly, the diocese's fiduciary duty to investigate 17 these claims. And Mr. Stang started by saying we're not in 18 power to go --</p> <p>19 THE COURT: But look at (indiscernible). This is, 20 we're twisting -- we're being twisted into a pretzel here. 21 I mean, let's just play out the strings. Litigation gets 22 very ugly, and gets very intense, and then you get to the 23 point where there's the possibility of a settlement.</p> <p>24 MR. GEREMIA: Yes.</p> <p>25 THE COURT: And (indiscernible)</p>

Page 54	Page 56
<p>1 MR. GEREMIA: The diocese will be the plaintiff in 2 that litigation.</p> <p>3 THE COURT: But the diocese will have been the 4 transactor in that transaction. The diocese will have been 5 -- will have been the transferor in that transaction that 6 will have been authorized by current or former members of 7 the diocese board, or the diocese management.</p> <p>8 MR. GEREMIA: And I think that's often the case in 9 avoidance actions, that you've got a Debtor that is the 10 plaintiff on one side of the V, seeking to avoid 11 transactions, in many cases, with affiliates. I mean, 12 that's no different than the --</p> <p>13 THE COURT: Well --</p> <p>14 MR. GEREMIA: Than a fairly typical scenario in 15 which an avoidance action is brought, and that is why we 16 established the IAC as a conflict-free committee to 17 investigate these claims. I mean, Mr. Stang began by saying 18 --</p> <p>19 THE COURT: I need to go back to Mr. Stang, if you 20 will. Please just pause for a moment.</p> <p>21 MR. GEREMIA: I will.</p> <p>22 THE COURT: Mr. Stang, so going back to our kind 23 of parsing through the Otterbourg application, to your 24 knowledge -- maybe I should have asked Mr. Feldman or Mr. 25 Geremia this. Has the IAC prepared a report, you know, in</p>	<p>1 work, and it's identified colorable claims that the diocese 2 wishes to pursue for the benefit of the victims. So that's 3 all as it should be.</p> <p>4 And we're getting -- we are discussing with great 5 degree of difficulty, and I hope obvious care, whether or 6 not the Otterbourg firm and the Goldin firm should be the 7 professionals to pursue that litigation. And it's 8 definitely a square peg in a round hole, from my 9 perspective. And nobody wants to waste effort, nobody wants 10 to deplete assets of the estate. Certainly I'm not 11 interested in having the committee redo, you know, work. I 12 know the committee has an independent obligation to do its 13 own review. I respect that; that's fine.</p> <p>14 But we have to come up with an answer for how 15 these claims get pursued. It's not going to be the Jones 16 Day firm, that's clear, and we're not going to leapfrog 17 into, you know, into the standing issue. You know, and 18 there's a practical impediment for that, because as you well 19 know, one of the factors there is whether or not the Debtor, 20 the corporation has refused to bring the action. So that's 21 just not going to be true, because they want to bring the 22 action. So what do we do?</p> <p>23 MR. STANG: Well, Your Honor, this is what I 24 think. Well, first of all, I don't know if it's just their 25 refusal to -- it can be also their inability to. But I want</p>
Page 55	Page 57
<p>1 the nature of a report that, for example, an examiner would 2 prepare?</p> <p>3 MR. STANG: Your Honor, you're asking me that 4 question, or Mr. Feldman?</p> <p>5 THE COURT: Yeah, I mean, do you know? If not, I 6 can just ask Mr. Feldman.</p> <p>7 MR. STANG: I believe in one of the pleadings, it 8 was Mr. Feldman's response, or Otterbourg's response. They 9 say they have informed the diocese that have concluded it's 10 a colorable claim, but otherwise have not given it a report 11 of their findings. But Mr. Feldman would know better, but 12 that's my recollection of the pleadings.</p> <p>13 THE COURT: Okay. And hypothetically, and again, 14 I find it useful to use somewhat exaggerated hypotheticals 15 to see if I can get the right answer. Hypothetically, if I 16 were to say to you that Mr. Stang, what would you think of 17 my selecting a firm to pursue these claims, or what would 18 you think of a process in which all interested parties 19 suggested other professionals to pursue these claims?</p> <p>20 MR. STANG: It's -- well, I hadn't really thought 21 about the professional part of it. Again, I'm concerned 22 about the baby with the bathwater problem. But to answer 23 your question --</p> <p>24 THE COURT: Well, I mean, that's the point here, 25 right? The point is that the IAC has done a lot of valuable</p>	<p>1 to make a distinction between who brings the action, who the 2 plaintiff is, and who the plaintiff's professionals are.</p> <p>3 And what the Debtors tried to do here is not address the 4 first issue, but only address the second. And that was the 5 problem.</p> <p>6 And that's why from the beginning, everyone, you 7 know, we said you queried, you know, what is this thing, the 8 IAC? So obviously you can employ, under the federal rules 9 of evidence, your own expert. You could appoint an examiner 10 with expanded powers, if that's something that -- if that's 11 a concept that you buy into. I don't know, I haven't 12 researched your opinions to see if you think such a unicorn 13 exists. You could appoint a trustee, perhaps, with limited 14 authority, or you could appointment -- the committee could 15 be asked to be the one doing it on behalf of the Debtor. 16 I'm not trying to preclude any of those things at today's 17 hearing.</p> <p>18 But there are people who can be appointed, or 19 entities that can be appointed who can pursue this 20 litigation without the conflicts that the Debtor has, which 21 it admits it has, and without using an entity that doesn't 22 has the power, under state law, to do what they've been 23 charged with. So I think there are alternatives, and 24 whether Otterbourg and the Goldin firm are unable to 25 represent that entity or person, we'd have to see what</p>

<p style="text-align: right;">Page 58</p> <p>1 conflicts might exist by virtue of their prior 2 representation. I wouldn't on today's call preclude that, I 3 just haven't analyzed it. 4 THE COURT: I'm sorry, I lost you at the very end. 5 MR. STANG: Oh, if the question is, I can appoint 6 Ms. X, and can the Otterbourg firm and the Goldin firm 7 represent them in pursuing the litigation, you know, the 8 answer is I don't know that. I don't want to preclude it. 9 I just haven't thought about what conflicts might exist by 10 virtue of the representation of the IAC. I just don't know. 11 I'm not telling you we have to (indiscernible) new people. 12 THE COURT: Let me try it again, because I'm 13 confused. If the issue is not the continuing existence of 14 the IAC, but rather the firm that represents the IAC in 15 pursuing the claims on behalf of the diocese, then why would 16 we be continuing to talk about the Otterbourg firm? IN 17 other words -- 18 MR. STANG: I'm sorry, Your Honor. I think I was 19 confused. But I don't think under any circumstance the IAC 20 as it's presently created can pursue the litigation. Now, 21 can you turn around and say I'm going to appoint the IAC as 22 an examiner, with expanded powers to pursue the litigation? 23 I don't know. Can I appoint the IAC as a trustee, in 24 effect, to pursue the litigation? You know, I just -- by 25 virtue of what they've done so far, what their relationship</p>	<p style="text-align: right;">Page 60</p> <p>1 THE COURT: Sure. 2 MR. FELDMAN: I just want to clarify one thing on 3 the record. I think Your Honor asked a question about 4 whether there had been a report, and Mr. Stang gave an 5 answer, which I don't think was wholly accurate, and perhaps 6 it was obviously -- 7 THE COURT: Okay. 8 MR. FELDMAN: So in, I think it's July, maybe 9 August of 2020, there was a report that was delivered by the 10 IAC, a written report by the IAC to the diocese. The -- I 11 don't think our papers denied that. I think we said we 12 communicated our findings, or the IAC communicated its 13 findings and deliberations to the diocese. I don't think 14 they ever said that there was no report, because there is a 15 report, and I didn't want the Court to be misled. 16 Not saying Mr. Stang was misleading the Court. I 17 apologize if it came across that way, (indiscernible) that 18 the answer was not wholly correct, so I just wanted to 19 clarify the record for that purpose. Thank you. 20 THE COURT: All right, thank you very much. 21 MR. FELDMAN: I know you asked Mr. Zipes. 22 THE COURT: Okay, all right. Thank you, thank 23 you. Is everybody doing okay? Do we need to take -- you 24 know, we're all on the phone here. If we need to take a 25 break at any point, someone should let me know. All right,</p>
<p style="text-align: right;">Page 59</p> <p>1 to the diocese has been, as a committee and a corporation, I 2 haven't thought that through. 3 But it is clear to me that you had the authority 4 to appoint someone or something to pursue the litigation. 5 That's who the plaintiff will be. Again, whether it can be 6 the IAC is a greater conversation, that I'm not going to 7 discuss. 8 THE COURT: So I could appoint the IAC or one or 9 more members of the IAC as an examiner. And then that 10 person could retain his or her own counsel. Problem solved? 11 MR. STANG: I have not -- well, I don't know. I 12 have not thought through, for today's hearing, whether the 13 IAC or any of its members could qualify under the code for 14 that position. I haven't thought it through. But, I see 15 where you're going, and the answer is, I think it's maybe. 16 I just haven't thought through whether the relationship 17 (indiscernible) for the Debtor to date precludes that. 18 THE COURT: Okay. Okay, all right, all right. 19 This is productive. Let me give Mr. Zipes an opportunity, 20 because I think his -- the U.S. Trustee's objections are a 21 horse of a different color, so to speak. So Mr. Zipes? 22 MR. FELDMAN: Your Honor -- 23 THE COURT: Good morning. 24 MR. FELDMAN: Your Honor, this is Peter Feldman. 25 Can I interrupt? This is Peter -- may I interrupt?</p>	<p style="text-align: right;">Page 61</p> <p>1 Mr. Zipes, may I hear from you, please? 2 MR. ZIPES: Yes, good afternoon, Your Honor. Good 3 to hear your voice, and I hope to see you soon. First of 4 all, I want to echo the statements that were made about Mr. 5 Goldin, and Ms. Cyganowski, and Judge Gonzalez, about their 6 qualifications. And this is not about their qualifications 7 in any way. And I do appreciate Mr. Stang's comments as 8 well. 9 As the Court said, our objection is maybe of a 10 different stripe. I did want to -- I raised my hand at 11 certain points during the discussion, I didn't want to 12 interrupt people. I just wanted to make the point that 13 although it wasn't entirely clear in the motion to retain 14 professionals, what their exact role as within the Debtor, I 15 think it is clear now that they are, at least from the 16 Debtor's point of view, that they are diocese, part of the 17 diocese. 18 And I'll go even further than that, the Debtors 19 have stated in, as admissions, Judge Gonzalez's statement in 20 his declaration, that the IAC is a special committee of the 21 board. They specifically have been stating that they're a 22 creature of the board here, and I do appreciate the 23 statements that generally, I think if this was not a 24 religious corporation, there would be no question, but that 25 they would be independent, they would have been retained as</p>

<p style="text-align: right;">Page 62</p> <p>1 independent directors of the board to investigate, and 2 everything that flows from that. 3 But Your Honor, the U.S. Trustee presents a 4 statutory argument, and the matters before the Court here 5 are the retention of professionals of the Debtor. These are 6 -- these proposed functions, whatever you want to call them, 7 are core duties of the Debtor. They're not painting the 8 walls of, you know, the grounds of the church or anything 9 like that. These are suing and being sued, 323 of the 10 Bankruptcy Code, and there is the question of whether they 11 are insiders as well. It is pretty clear that insiders of 12 the corporation, under the Bankruptcy Code, 101 defines it 13 as director -- among other things, director, officer, or 14 person in control. 15 So there is a lot of discussions right now about, 16 are they directors, where do they fit in? They're in 17 control, because they have the ability to sue on behalf of 18 the Debtor on significant matters. These are matters that 19 are of great concern to all the parties who are involved 20 with the case. And they're not insignificant, and they go 21 to the core of what the Debtor really does in a bankruptcy 22 case. 23 So the -- we think that it's very clear that there 24 is a disinterest in this issue here. The board members are 25 insiders of the Debtor, and their firms are being used to</p>	<p style="text-align: right;">Page 64</p> <p>1 various parties. 2 THE COURT: Okay. All right, thank you. I mean, 3 I do think that -- someone's typing. Please put your phone 4 on mute. I do think that the U.S. Trustee makes important 5 points here, in the alternative that members of the firms are 6 statutory insiders, and therefore the applicants aren't 7 disinterested, and also makes the point briefly, but I think 8 interestingly that notwithstanding their designation by the 9 diocese as independent contractors, that they would be 10 considered employees under an ordinary definition. 11 There's been a lot of talk of the record today 12 about how much power and authority that the individuals 13 would have, which certainly begins to make them feel -- make 14 it feel as if, for the purposes of pursuing these claims, 15 these individuals are indeed persons in control of the 16 Debtor, and are functioning as employees of the corporation. 17 So, that's another level of complexity here. I'm 18 happy to have Mr. Geremia, or Mr. Feldman, or Ms. Ball 19 respond to that if you like, but that definitely has my 20 attention here. It's another way in which I'm presented 21 with a square peg in a round hole. 22 MR. GEREMIA: Thank you, Your Honor. I can 23 address the trustee's objection. What we might do -- I 24 mean, the trustee and the committee counsel have suggested a 25 number of things that have not been framed by these</p>
<p style="text-align: right;">Page 63</p> <p>1 pursue actions on behalf of the Debtor. The Debtor didn't 2 really address that point. They've been addressing Mr. 3 Stang's points. But this is, again, this is a statutory 4 argument. We can only go with the motions as they're filed, 5 the information that's provided to us. We try to get 6 further information, but this is a highly unusual situation, 7 and directors are -- they are insiders of the Debtor. 8 They're asking their firms to be retained. 9 One fact here, although it's not central it our 10 argument, it does appear that we're at a cleavage point. 11 The investigations have been done. So there are other 12 alternatives, as this Court has been mentioning as 13 possibilities. And it's not as though we're stopping an 14 investigation that's in its tracks at this point. We've 15 reached a certain point. 16 Your Honor, my only other point, because I know 17 you read the papers and everything else, is that if the 18 Court is inclined to go a different rule, there were some 19 statements that the Court could do X or Y, and I don't think 20 that that's precluded, but there are, under 1104, 21 appointment of examiners and appointment of trustees, those 22 have certain procedures, obviously, that involve the U.S. 23 Trustee's office, and I just wanted to state that as well. 24 So, Your Honor, those are the central points I wanted to 25 make to you. I think the record has been clarified by the</p>	<p style="text-align: right;">Page 65</p> <p>1 applications or the objections, you know, the notion of the 2 Court appointing its own expert, an examiner, a trustee, 3 those issues have not been fleshed out. We have previously 4 offered and discussed with committee counsel the notion of 5 trying to work out an agreement, how the IAC might interact 6 with the UCC. We have not yet been provided any guidance 7 with that, with respect to that issue. 8 One thing, and we hear Your Honor about the 9 committee's objections, that we have discussed with the U.S. 10 Trustee is the notion that the diocese and the IAC will 11 commit to reporting to the Court if the diocese is not going 12 to accept any recommendation of the IAC. In that respect, 13 it's not that much different than the typical situation in 14 which a special committee is established to investigate 15 avoidance claims, and then that committee reports back to 16 the board, and the report and the board either accept that 17 recommendation or not. 18 We will commit to conveying to the Court, if the 19 Debtor is not going to accept the IACs recommendation. As 20 we've already submitted to you today, that is not going to 21 happen. The Debtor is committed to pursuing these claims. 22 There is no question on this record that they will be 23 pursued, and the diocese would be the plaintiff in those 24 avoidance actions. The overall point is that it may make -- 25 it may be fruitful for us to go offline and discuss with the</p>

<p style="text-align: right;">Page 66</p> <p>1 trustee and the committee how this would all be set up, 2 because a number of issues have been raised today that 3 really weren't addressed by the papers. 4 On the specific issues of the trustee's 5 objections, Your Honor raised the point of employees and 6 persons in control. I think the case law and persons in 7 control is fairly well-established, that it has to be 8 extensive control over the Debtor's day-to-day operations, 9 and these IAC members simply don't have that. They have a 10 narrow charge with respect to past transactions. Since 11 2014, two affiliates over threshold amount, that -- 12 THE COURT: Yes, I agree with you. I agree with 13 you. Again, this is, you know, this is a very unique set of 14 facts that we have, but I don't disagree with you in terms 15 of the ordinary and the meaning of those words in the 16 statute. 17 I want to make one more point, that frankly I 18 thought Mr. Stang would make, but I'm going to make it, and 19 I'm not putting words in this mouth, but these are just an 20 observation that I want to make. So first principles for me 21 are number one, there's obviously been a great deal of 22 important, thoughtful and difficult work that's been done, 23 and it behooves us all to find a way to take advantage of 24 that, and not have to repeat that work. 25 Secondly, we're all struggling, and it's almost --</p>	<p style="text-align: right;">Page 68</p> <p>1 think outside the box. But I think, you know, in a 2 situation where, you know, I often say you know, there's an 3 expression in baseball, the tie goes to the runner, so here 4 I think, you know, in a close case, one thing that we ought 5 to put on the scale, thumb on the scale is the appearance of 6 it, and making sure that it's absolutely squeaky-clean and 7 provides the victims with the feeling that it's a really 8 good process that's being conducted in a way that serves 9 their interest, and serves the interest of this case. 10 I am intrigued, and admit that it's one of the 11 things that I was thinking about coming into this hearing as 12 to whether or not using the device, or the role of someone, 13 an examiner, or someone like an examiner, possibly, whether 14 that would be one or more of the members of the IAC, and 15 then looking to a new firm, to pursue the litigation, 16 whether that doesn't check a lot of the boxes, and 17 accomplish a lot of the goals that I would like to 18 accomplish, and that I hope many of you share. 19 So I think it was Mr. Geremia who suggested that 20 perhaps it would be a good idea to take this offline, and 21 let you folks talk, and see what you come up with, and then 22 we can resume the conversation, and then if you come up with 23 something to present that's acceptable to the Court and 24 acceptable to the U.S. Trustee, we could go from there, and 25 if not, I'll render a decision. Was that you, Mr. Geremia</p>
<p style="text-align: right;">Page 67</p> <p>1 it will almost be two hours, with, you know, it's like a law 2 school exercise, parsing the words of the statute, trying to 3 deal with the unique facts and challenges that this 4 religious nonprofit presents us with and how to overlay that 5 into the requirements of the code. And we're having a hard 6 time, I'm having a hard time making it fit. You know, I 7 feel like I'm just trying to jam apart into a machine and 8 it's really not exactly the right part, and the right fit. 9 But finally, I don't want to lose sight of the 10 fact that one of the important goals of this case is to 11 provide as impeccable a process as is possible, for the 12 benefit of the victims. That's the point of this. And also 13 to enable the diocese to emerge from Chapter 11, and 14 continue its mission and all the important work that it does 15 on behalf of so many people. And because of that, it's 16 important for there not to be any question mark, any cloud, 17 any level of discomfort about how it is that we go about 18 creating a recovery pool, and that includes pursuing 19 litigation that involves transactions in which the diocese 20 was a party. And that's important. 21 So that to the extent that this is a close call, 22 and I certainly appreciate that the Jones Day folks have 23 done an excellent job in advocating for why I shouldn't 24 think that it's a close call, along with Mr. Feldman, and 25 Mr. Stang has been creative, and evidence of willingness to</p>	<p style="text-align: right;">Page 69</p> <p>1 who suggested that you still need to talk? Go ahead. 2 MR. GEREMIA: Yes, I did. I think that will be 3 fruitful. 4 THE COURT: Okay. Mr. Stang, is that okay -- 5 MR. GEREMIA: (indiscernible) I'm sorry, go ahead. 6 THE COURT: Go ahead, I'm sorry. No, go ahead, 7 I'm sorry. 8 MR. GEREMIA: I was going to say, that should be 9 fruitful. And in the event it's not, we would just ask for 10 the opportunity to submit a response to the surrepley, 11 because some of the issues that we've confronted today have 12 come about as a consequence of the fact that the diocese 13 hasn't submitted a written response to Your Honor, to that 14 surrepley. But I think we should be able to work out the 15 issues offline, talking to the trustee and the committee 16 counsel. So hopefully will not come to that. 17 THE COURT: Okay, all right. That's fine, with 18 respect to the, I guess it's a sur-surrepley. And I'm 19 hopefully that you'll have some fruitful discussion. So let 20 me look at the calendar. Would it be useful to all of you 21 to have a date and a time certain to return, or do you want 22 me to leave it more open-ended? I know there's some urgency 23 in getting this resolved. 24 MR. GEREMIA: Let me defer to Ms. Ball, or Mr. 25 Rosenblum, who have other aspects of the schedule in mind.</p>

<p style="text-align: right;">Page 70</p> <p>1 THE COURT: Okay, Ms. Ball?</p> <p>2 MS. BALL: Yes, Your Honor. Thank you. I know</p> <p>3 that we have another hearing on the 9th. We'll be here</p> <p>4 anyhow. And not to impose on the Court, but I think that we</p> <p>5 would look to work this out over the intervening period with</p> <p>6 the holiday. I think Mr. Stang has come up with some very</p> <p>7 interesting ideas as to how we can work with the IAC or</p> <p>8 certain of its members in moving forward, and we are -- we</p> <p>9 would like to explore those further, and get back to you.</p> <p>10 And maybe the 9th would be soon enough, given</p> <p>11 intervening events that we're already working on, one of</p> <p>12 them we've somewhat alluded to, which is getting the bar</p> <p>13 date motion on file. But we have a lot to work with UCC on</p> <p>14 in this two-week period.</p> <p>15 THE COURT: You have a lot. You have a lot of</p> <p>16 work -- you have a lot of work on your plate, indeed. My</p> <p>17 only -- and I'm happy to have you come back on the 9th. My</p> <p>18 only concern is this problem of the fact that I'm only one</p> <p>19 person with two wonderful law clerks, and so that if on the</p> <p>20 9th we're going to have a resumed contested hearing on this,</p> <p>21 while we're preparing for preliminary injunction hearing on</p> <p>22 the 10th, we'll be quite busy. But that's okay.</p> <p>23 So if you'd like to take it out to the 9th, that's</p> <p>24 fine, and I could -- you know, obviously as soon as you have</p> <p>25 an indication in the direction that it's going, we'd be</p>	<p style="text-align: right;">Page 72</p> <p>1 taking so much time to help me think through these issues,</p> <p>2 and thank you for the general update on the progress of the</p> <p>3 case. I'm very pleased with how well and expeditiously</p> <p>4 things are moving along. Unless anyone has anything else, I</p> <p>5 think I can let you go get some lunch.</p> <p>6 MAN: Thank you, Your Honor.</p> <p>7 MAN: Happy Thanksgiving to everyone.</p> <p>8 THE COURT: Thank you, thank you.</p> <p>9 MS. BALL: Happy Thanksgiving, Your Honor, and</p> <p>10 thank you.</p> <p>11 THE COURT: Happy Thanksgiving to you all, please</p> <p>12 stay safe. This concludes the hearing.</p> <p>13 (Whereupon these proceedings were concluded at</p> <p>14 12:50 PM)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 71</p> <p>1 grateful for a heads up.</p> <p>2 MS. BALL: Your Honor, if I may echo what my</p> <p>3 partner, Mr. DiPompeo, said earlier, that I think that he</p> <p>4 has already, we have already undertaken to let you know, and</p> <p>5 we hope Mr. DiPompeo indicated to you that we reach out some</p> <p>6 time next week, so hopefully we will -- we are all going to</p> <p>7 work hard so that the Court does not have that burden on the</p> <p>8 9th and the 10th, actually.</p> <p>9 THE COURT: Okay, all right.</p> <p>10 MS. BALL: And I think he's already suggested that</p> <p>11 he and committee counsel would reach out. Mr. DiPompeo over</p> <p>12 here is still available. I don't think you've picked a day,</p> <p>13 but you suggested well before the 9th, correct?</p> <p>14 THE COURT: Yes, yes. That's fine. I'm just, I'm</p> <p>15 aware of how much you have -- you folks have a lot on your</p> <p>16 plate, and we'll do our part. So whatever it turns out to</p> <p>17 be, we will do. And I again, with all of the burdens that</p> <p>18 everybody is dealing with these days, and I don't want to</p> <p>19 ruin whatever Thanksgiving holiday people manage to be able</p> <p>20 to safely enjoy.</p> <p>21 So, okay. So I've got you on my calendar for</p> <p>22 10:00 on December 9th, I've got you on my cleaner for 10:00</p> <p>23 on December 10th. If you'd like to have a hearing or a</p> <p>24 conference before then, just reach out to Ms. Eisen, and</p> <p>25 we'll make ourselves available. Thank you all so much for</p>	<p style="text-align: right;">Page 73</p> <p>1 CERTIFICATION</p> <p>2</p> <p>3 I, Sonya Ledanski Hyde, certified that the foregoing</p> <p>4 transcript is a true and accurate record of the proceedings.</p> <p>5</p> <p>6</p> <p>7</p> <p>8 Sonya Ledanski Hyde</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 Veritext Legal Solutions</p> <p>21 330 Old Country Road</p> <p>22 Suite 300</p> <p>23 Mineola, NY 11501</p> <p>24</p> <p>25 Date: November 19, 2020</p>

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& 4:16 5:15,16 20:13 31:1 41:13	20/20 37:18	712 34:13 42:4 48:10 49:15 50:20 50:24 52:12,25	addressed 66:3
0	200 10:22	780 4:18	addresses 48:21
07962 5:11	200,000 31:24	8	addressing 43:13 63:2
1	201 6:10	8 48:18	admissions 61:19
1 13:14 27:3	2014 27:3 66:11	9	admit 68:10
10004 2:13	2017 32:4	95 18:16	admits 57:21
10014 6:11	2020 2:15 60:9 73:25	9th 70:3,10,17,20 70:23 71:8,13,22	adrian 6:21
10017 4:19	230 6:3	a	adv 1:11 2:1
10022 5:4	25 42:14,25	ability 12:10 30:3 62:17	advance 11:9
1006 6:10	250 4:5	able 11:25 39:25 69:14 71:19	advantage 16:4 66:23
101 62:12	28th 16:23 17:5 19:5	absence 19:21	adversary 3:8,12 10:4,13,20 16:7 16:14 23:21
10169 6:4	3	absolutely 15:20 22:20 41:16 46:12 68:6	advise 20:25 52:13
10281 4:6	3 27:11 34:1 42:14 43:22 44:15	abuse 23:1	advisor 3:5 24:8 25:19
10th 11:10 12:3,8 12:18 14:17 15:8 70:22 71:8,23	300 73:22	accept 11:1 65:12 65:16,19	advisory 3:2,5 6:2 24:9,16 25:5 34:2 35:4,5 49:18 50:13 52:17
11 14:10 67:13	320 1:16 3:9	acceptable 15:18 15:23 68:23,24	advocating 67:23
1104 63:20	323 62:9	accepted 53:13	affiliate 31:3 38:2 39:19
11501 73:23	327 30:11	access 23:9	affiliated 27:1
117 11:19 12:7	330 73:21	accomplish 68:17 68:18	affiliates 37:21 38:1,24 54:11 66:11
11:02 2:16	34th 4:18	accurate 9:13 60:5 73:4	affiliation 39:23
12:50 72:14	350 5:10	action 44:2 54:15 56:20,22 57:1	afternoon 10:6 61:2
15 11:19	3rd 15:3	actions 54:9 63:1 65:24	agenda 9:14 10:2 10:12
153 28:21	4	add 31:9	ago 39:4
159 49:3	4 48:18,18	addition 32:15	agree 11:16 12:16 20:16 21:6 53:1 66:12,12
160 9:15	407 46:22	additional 22:8 26:17 27:8	agreed 10:25
16th 9:15	49 42:14,25	address 17:20 20:7 24:19 57:3,4	agreement 11:12 11:25 12:5 22:2
18 2:15	4th 10:21		
18th 14:14	5		
19 73:25	5 48:18,19		
1st 12:24	55 5:17		
2	599 5:3		
2 45:7	6		
2-1/2 27:2,13,23 28:1	60 3:1 42:13,14,22 46:22		
2.5 28:7	60-2 46:21		
20-01226 1:11 3:8	60603 5:18		
20-01227 2:1 3:12	61 3:4		
20-101227 16:7			

<p>65:5 ahead 10:18,18 26:23 37:15 43:4 44:5 50:18 69:1,5 69:6,6 aic 25:14,19,25 al 1:16 2:6 3:9,14 16:9 allied 30:20,24 allows 44:14,15 alluded 22:5 70:12 alterative 64:5 alternatives 57:23 63:12 amanda 7:18 amenable 14:19 amount 36:18 66:11 analysis 43:11,14 analyzed 58:3 anderson 6:25 andrew 4:13 7:11 7:12 9:25 answer 11:10 16:20 17:6 24:18 44:24 45:14 55:15 55:22 56:14 58:8 59:15 60:5,18 answers 16:23 17:24 18:4 34:22 anticipate 11:8 17:3 anticipating 11:19 anybody 23:20 apart 67:7 apologies 37:14 apologize 51:9 60:17 apparently 23:5 appear 63:10</p>	<p>appearance 68:5 appeared 17:1 appearing 9:12 appears 29:9 31:2 applicant 46:17 applicants 64:6 application 3:1,4 10:8 26:14 34:10 42:20,22 44:21 46:15,18 49:22 54:23 applications 24:6 24:14,17,21 25:12 25:15,17 33:25 35:19 41:21 42:13 47:14 65:1 applies 34:13 appoint 39:20 57:9,13 58:5,21 58:23 59:4,8 appointed 39:18 39:23 47:19 57:18 57:19 appointing 65:2 appointment 57:14 63:21,21 appreciate 37:13 61:7,22 67:22 approach 14:19 20:3 22:17 approaching 41:4 appropriate 26:12 40:20 43:14 45:1,18 47:1 appropriately 13:2 approval 16:19 17:12 architecture 29:4 aren't 64:6 argument 48:7 62:4 63:4,10</p>	<p>ark 1:16 3:9 arrive 23:4 arrowood 2:6 3:13 5:9 16:8 17:8 18:8 arthur 6:20 25:11 asked 46:7 47:11 54:24 57:15 60:3 60:21 asking 13:17 14:7 14:8 46:8 51:18 51:20 55:3 63:8 aspects 69:25 asset 22:11 assets 27:5,8 56:10 assist 24:8 35:20 assisted 25:20 associates 25:19 assume 26:5 49:17 assumes 30:17 assuming 30:9 attached 28:19 30:7,22 attention 43:21 64:20 attorney 20:13,20 20:21 attorneys 4:4,17 5:9,16 6:9 august 60:9 authorities 43:8 authority 19:24 27:25 35:17 42:8 48:14 53:8 57:14 59:3 64:12 authorize 36:3 52:21 authorized 54:6 automatic 10:13 14:11</p>	<p>available 71:12,25 avenue 4:18 5:3 5:10 6:3 avoid 54:10 avoidance 45:1 51:24 54:9,15 65:15,24 aware 21:17 22:25 25:17 27:15 31:14 39:17 71:15</p> <p>b</p> <p>b 2:21 42:19 46:22,22 47:2,8 baby 45:13 55:22 back 12:21 18:25 33:18 36:18 42:10 48:5 50:22 51:10 54:19,22 65:15 70:9,17 background 25:9 25:13 26:1 ball 4:9 9:24 37:8 37:10,12,14,16,23 38:2,22 39:17 64:18 69:24 70:1 70:2 71:2,10 72:9 bankruptcies 20:24 23:1 bankruptcy 1:1 2:11,23 39:18 40:19 41:5 62:10 62:12,21 bar 17:11 70:12 barres 32:4 base 30:11 baseball 68:3 based 50:23,24 52:9,12 basically 46:8 basis 12:11 29:25 36:10 46:3 51:17 bath 45:13</p>
--	---	--	--

[bathwater - chicago]

Page 3

bathwater 55:22 bear 51:8 began 54:17 begged 41:22 beginning 41:22 57:6 begins 64:13 begs 44:23 behalf 9:12,18 11:1 18:1,8 20:10 24:19 33:14 35:24 38:12,13 44:3 57:15 58:15 62:17 63:1 67:15 behooves 22:9 66:23 belabor 25:8 33:17 believe 17:1,10,15 30:20 31:25 34:10 38:20 48:22 55:7 believes 11:15 ben 9:24 10:1 benefit 24:11 30:6 56:2 67:12 benjamin 4:10,14 7:17,19 berringer 5:6 16:10,10,14,17 18:11 20:16 22:22 22:24 23:17 best 14:3 17:22 22:3 24:20 52:18 better 55:11 beyond 17:14 29:15 41:20 44:15 47:4,5,6 big 14:9 bind 35:17 42:9 48:14 49:11,16 53:8,9 bishop 28:23 32:3 32:4,4 34:6 38:17	bishops 32:3 bit 23:14 board 27:9 28:18 28:23 29:2,8,14 30:13,16 31:10 34:3,5,15,15,17 34:20,24,25 35:3 35:4,11,17 36:24 37:5 39:8,13,13 39:18 42:6,9 43:11 44:7,13,13 44:16,18 48:11,14 49:6,11,17 50:5,7 50:9,16 51:14 52:4,9,22 53:1,2,5 53:5,6,8,10 54:7 61:21,22 62:1,24 65:16,16 board's 34:4 body 46:16,17 borriello 7:10 bottom 32:14 43:7 bowling 2:12 box 68:1 boxes 68:16 breadth 11:25 break 26:19 60:25 brenda 6:21 7:9 brett 7:15 brief 15:3 briefly 18:10 22:24 64:7 bring 12:21 22:10 56:20,21 brings 57:1 brittany 7:20 broad 11:23 13:2 13:3 23:5 brought 22:19 54:15 bunin 7:6 burden 71:7	burdens 71:17 busy 70:22 butler 4:13 7:11 9:25 buy 57:11 bylaws 29:13 c c 2:22 4:1 9:1 42:24 47:2,9 73:1 73:1 calendar 69:20 71:21 calhoun 7:21 call 15:24 27:20 38:20 50:6 58:2 62:6 67:21,24 called 27:10 29:6 calling 50:7,9 captions 43:7 care 56:5 carriers 16:21 21:23 case 1:3,11 2:1 9:3 9:4 17:10,16,21 19:4,22,23 20:4 21:17,24 23:9,10 29:8,19,24 33:13 40:20 54:8 62:20 62:22 66:6 67:10 68:4,9 72:3 cases 13:15,15 14:6 18:24 21:18 29:5 30:21 36:5 38:3,6 39:18 52:2 54:11 catch 19:9 42:17 43:1 cate 7:23 category 27:16 catholic 1:7,13 2:3 3:8,12 9:4 16:8 27:11	cathy 5:20 20:12 cemetery 27:5,18 central 63:9,24 centre 1:7,13 2:3 3:9,13 9:4 16:8 certain 17:1 20:10 20:14 27:6 38:20 61:11 63:15,22 69:21 70:8 certainly 16:4 44:25 56:10 64:13 67:22 certified 73:3 cetera 49:8,8,13 cfo 32:6 chair 25:10 challenges 67:3 challenging 50:15 chambers 23:15 chancellor 34:7 chapin 32:7 chapman 2:22 9:3 chapter 14:10 67:13 characteristic 52:18 characterization 36:15 50:16 characterize 18:18 36:12 characterized 48:2 charge 66:10 charged 49:9 57:23 charles 6:24 7:16 charter 42:10,12 42:19 44:3 chasing 51:25 check 68:16 chicago 5:18 20:13
--	---	---	---

[christopher - confused]

Page 4

<p>christopher 4:8 9:21 15:22 church 18:23 62:8 circle 52:1 circumstance 58:19 circumvent 44:8 ciriello 7:12 cited 38:6 cites 34:9 claim 17:12,15,19 18:19,25 21:5,18 23:1,3,7 43:25 55:10 claimant 17:18 claimants 21:2 claims 22:14 24:11 25:24 26:17 28:11 30:5 32:21 32:22 33:14 35:24 36:1,3,6,10 38:4,9 39:23 40:1,4,11 44:1 45:20 47:3,4 49:25 50:1 51:24 52:21,22,23 53:15 53:17 54:17 55:17 55:19 56:1,15 58:15 64:14 65:15 65:21 clarification 37:16 clarified 63:25 clarify 60:2,19 clause 35:1 clean 68:6 cleaner 71:22 clear 32:15 39:12 42:8 44:17 49:1 50:20 52:20 56:16 59:3 61:13,15 62:11,23 clearly 25:9 51:12 51:13</p>	<p>cleavage 63:10 clerks 70:19 client 19:15 clients 11:1 close 45:7 67:21 67:24 68:4 cloud 67:16 clyde 5:15 20:13 code 40:2,19 41:5 59:13 62:10,12 67:5 colleague 15:16 colleagues 9:24 color 59:21 colorable 24:11 25:24 26:17 36:2 43:25 55:10 56:1 come 16:21 33:8 52:17 56:14 68:21 68:22 69:12,16 70:6,17 comes 13:6 coming 68:11 commencement 44:2 commencing 40:13 comment 13:9 18:10 comments 61:7 commit 65:11,18 commitments 14:4 committed 65:21 committee 3:2,6 4:17 6:2 11:12,13 11:15 12:15 13:11 15:25 17:6 18:2 20:5 21:4 22:6,13 24:9,10,12,16 25:6 28:17,17 29:1,6,6 30:2,25 31:7 33:24 34:2,3</p>	<p>34:19,23,23 35:4 35:5,10,14,16,23 36:15,24 39:8,11 39:12,13,14,14,22 41:13,25 42:6,7,8 43:10,16,24 44:16 44:18,19,21,22,25 45:22 46:2,13 47:2,18 48:11,12 48:13 49:2,6 50:5 50:6,8,9,16,19 51:12,13,15,17,20 52:2,3,3,4,5,7,8 52:10 53:2,3,4,4,7 54:16 56:11,12 57:14 59:1 61:20 64:24 65:4,14,15 66:1 69:15 71:11 committee's 11:17 34:21 65:9 committees 29:23 30:12,23 34:14,14 34:16 39:17 49:11 49:15,16 51:22 52:25 53:1,5,5,6 common 22:11 communicate 43:10 communicated 60:12,12 companies 5:16 17:14,20 20:15 company 2:6 3:5 3:13 complaint 10:23 11:5 16:23 complete 11:9 32:11 45:15 completed 45:16 completing 47:14 completion 26:15 complexity 64:17</p>	<p>comply 13:13 composed 30:23 comprise 30:1 40:21 comprised 29:7 29:23 30:12 36:25 concept 57:11 concern 34:23 62:19 70:18 concerned 55:21 concerning 24:20 concerns 40:24 concluded 24:10 25:25 55:9 72:13 concludes 72:12 conclusion 30:9 30:14,17 conclusions 31:19 concur 38:10,12 conditions 13:22 13:23 conduct 19:25 30:4 conducted 9:5 25:21 27:3 31:14 68:8 conference 3:10 3:15 10:13 16:1 17:24 41:23 71:24 conferences 10:4 confidence 41:1 confidential 21:11 confidentiality 11:3 conflict 39:21,24 54:16 conflicted 45:25 conflicts 40:1 57:20 58:1,9 confronted 69:11 confused 31:23 49:22 58:13,19</p>
---	---	--	---

[confusion - dealing]

Page 5

confusion 50:4 connection 10:5 12:21 35:18 51:6 consensual 11:13 11:16 12:11 consequence 69:12 consideration 14:12 19:14 considered 64:10 considering 20:18 considers 25:14 consist 28:23 consistent 36:11 consisting 35:5 construct 37:12 consult 46:10 consultants 32:9 consulting 31:1 contained 11:19 contains 49:7 contemplated 28:4 contested 10:5 12:2 13:5 15:7 23:22 70:20 contesting 22:1 context 25:12 34:4 35:15 38:5 47:8 continuation 49:23 continue 11:11 15:24 23:7 28:5,9 28:13 32:25 40:10 41:2 67:14 continued 14:6 33:13 continuing 14:20 19:25 22:16 46:24 49:24 58:13,16 contractor 32:19	contractors 64:9 contractual 49:13 contrary 19:22 control 32:13 62:14,17 64:15 66:6,7,8 conversation 59:6 68:22 conveyed 35:23 53:13 conveying 65:18 coo 32:5 cooperation 10:24 cooperative 31:20 core 62:7,21 corinne 4:9 9:24 cornell 8:2 corporate 29:18 corporation 27:8 34:13,16 39:14 42:4,7 43:16 44:19,25 47:2 48:2,12 49:10 50:9 51:12 52:4,6 52:8 53:3,7 56:20 59:1 61:24 62:12 64:16 corporation's 49:9 correct 29:11 36:9 36:13,21 37:3 60:18 71:13 correctly 12:19 cost 33:5 47:14 coughlin 5:8,13 18:6,7,8,10 19:13 19:14 20:21 counsel 3:2 5:2 6:2 10:24,25 11:7 12:15 16:11,11,14 21:22 23:3 24:7 25:5,18 32:5 38:13,20,20 42:3	59:10 64:24 65:4 69:16 71:11 counted 31:24 countless 31:15 31:15 country 73:21 couple 20:22 course 13:6 16:2 29:5 court 1:1 2:11 9:2 9:6,22 10:6,9,11 10:15,18,21,24 11:14,16,22 12:9 13:8 14:13 15:11 15:11,21 16:5,13 16:16,19 18:5,9 19:8,16,19,22 20:25 21:13,16 22:15,25 23:11,19 24:2,5,18,23,25 25:3 26:3,5,10,21 26:23 28:2,4,12 28:15,22 30:8 31:13 32:17,23,25 33:4,17,19 35:18 35:23,23 36:6,10 36:17,23 37:4,9 37:11,15,22,25 39:3 40:8,14 42:16,19 43:1,4 43:19,21,24 44:5 44:9 46:20,23 47:19,22,25 48:5 48:15,19,25 49:5 49:20 50:18,22 51:3,8,25 52:12 52:24 53:19,25 54:3,13,19,22 55:5,13,24 58:4 58:12 59:8,18,23 60:1,7,15,16,20 60:22 61:9 62:4 63:12,18,19 64:2	65:2,11,18 66:12 68:23 69:4,6,17 70:1,4,15 71:7,9 71:14 72:8,11 court's 16:1 31:8 31:11 33:16 courts 19:19 coverage 21:22 create 9:13 created 28:16 34:15,18 39:13 53:6 58:20 creating 67:18 creation 29:1,1 49:15 creative 67:25 creature 61:22 creditors 4:17 21:4 24:13 current 32:4 54:6 curve 33:9 cyganowski 7:1 41:17 61:5
d			
d 9:1 47:8 damages 18:18 36:8 date 15:16 16:22 17:5,11,24 23:13 59:17 69:21 70:13 73:25 dates 23:15 day 4:3 9:21 11:2 20:23 23:24 24:1 56:16 66:8,8 67:22 71:12 days 71:18 deadline 11:10 deal 33:5 66:21 67:3 dealing 29:19 71:18			

<p>debate 42:5</p> <p>debtor 1:9 4:4 9:19,21 10:3,22 13:12,18,24 14:20 17:7,11 20:17 21:4,22 22:7,14 24:6,10,11,19 29:8 30:4 31:3 32:9,10,21 38:23 38:24 40:2,5,9 43:10 44:20,22 45:6,21 47:17 50:4 54:9 56:19 57:15,20 59:17 61:14 62:5,7,18 62:21,25 63:1,1,7 64:16 65:19,21</p> <p>debtor's 15:3 21:22 22:11 45:6 61:16 66:8</p> <p>debtors 12:15 16:11 30:13 51:22 57:3 61:18</p> <p>decades 18:23,23 18:25 40:23</p> <p>december 12:2,8 12:18 15:3,8 16:22 17:5 19:5 71:22,23</p> <p>decide 22:19</p> <p>decided 20:2 42:2</p> <p>decides 19:19 43:25</p> <p>decision 68:25</p> <p>decisions 49:12,17</p> <p>declaration 28:20 33:11 61:20</p> <p>declarations 25:10</p> <p>dedication 40:25</p> <p>deemed 27:18</p> <p>deems 43:14</p>	<p>defendant 37:24</p> <p>defendants 1:17 2:7 10:23,24,25 11:6,8 16:25</p> <p>defenses 19:6</p> <p>defer 24:15 36:14 37:17 69:24</p> <p>defines 62:12</p> <p>definitely 56:8 64:19</p> <p>definition 64:10</p> <p>degree 56:5</p> <p>delegated 27:25 32:21</p> <p>delegation 29:2</p> <p>deliberations 60:13</p> <p>delivered 60:9</p> <p>denied 60:11</p> <p>dennehy 7:7</p> <p>department 6:8</p> <p>deplete 56:10</p> <p>described 38:22</p> <p>designation 64:8</p> <p>details 11:21</p> <p>determine 46:25</p> <p>determined 36:1</p> <p>determining 17:13</p> <p>develop 19:5</p> <p>developed 38:4</p> <p>developments 18:3</p> <p>device 68:12</p> <p>difference 29:4,25 30:3 51:16</p> <p>different 20:4,6 21:17 51:21 54:12 59:21 61:10 63:18 65:13</p> <p>difficult 12:6 21:10 66:22</p>	<p>difficulty 56:5</p> <p>digesting 11:20</p> <p>diligently 10:22</p> <p>dine 7:24</p> <p>diocesan 29:19 31:25 32:2</p> <p>diocese 1:7,13 2:3 3:9,13 9:4 12:23 16:8 18:13,15,16 19:1 21:18 22:5 25:6 27:7 28:16 29:3,12,13 31:17 32:9,13 34:5,13 34:19 35:10,12,19 35:22,25 36:12,24 37:1,1,6,7,7,18,19 37:24 38:8,17,23 39:1,1,2,9,15,24 40:11 44:1,3 45:24 50:19 51:17 51:18,19 52:7,7 52:10,20 53:4,13 54:1,3,4,7,7 55:9 56:1 58:15 59:1 60:10,13 61:16,17 64:9 65:10,11,23 67:13,19 69:12</p> <p>diocese's 53:16</p> <p>dioceses 51:20</p> <p>dipompeo 4:8 9:20,21,23 10:10 10:16,19 15:22,23 71:3,5,11</p> <p>direct 43:21</p> <p>direction 19:21 31:18 70:25</p> <p>director 29:16 30:25 31:3,6 62:13,13</p> <p>directors 29:7,15 29:18,24 30:2,13 30:23 49:7,9,11 49:12,16 62:1,16</p>	<p>63:7</p> <p>disagree 48:6 66:14</p> <p>disband 50:15</p> <p>disbanded 46:9</p> <p>discomfort 67:17</p> <p>discovery 12:5,12 12:17 13:2,2,13 13:19,23 14:4 17:13,16 18:12,17 18:19 19:1,4,25 20:6,7,20 23:5 46:7</p> <p>discrete 29:21</p> <p>discuss 10:11 12:13 59:7 65:25</p> <p>discussed 11:2 65:4,9</p> <p>discussing 25:13 56:4</p> <p>discussion 11:11 61:11 69:19</p> <p>discussions 11:14 12:14 15:24 62:15</p> <p>disinterest 62:24</p> <p>disinterested 64:7</p> <p>disposes 34:10,21</p> <p>dispositive 48:3</p> <p>dispute 18:13</p> <p>disputes 16:2 20:8 22:19,21</p> <p>distinction 51:16 57:1</p> <p>district 1:2 19:18 19:19,22</p> <p>doc 3:1,4</p> <p>docket 9:15,15 42:13,22,24 49:3</p> <p>docketed 28:20</p> <p>document 11:17 12:7 13:1 14:23 46:21 51:9</p>
--	--	--	--

documentation 31:21 documents 14:21 31:16,21,23 doe 1:16 3:9 doesn't 50:9,11 68:16 doing 47:5,7 57:15 60:23 don't 47:20 48:22 58:8,10 66:9,14 67:9 71:18 doodian 32:6 drawing 49:25 drop 49:14 due 15:3 19:7 duff 31:1 duffy 5:8 duplicate 33:17 duration 12:11 duties 29:16 43:7 62:7 duty 40:5 53:16	elizabeth 7:23 emails 31:22,25 emerge 67:13 employ 3:1,4 57:8 employees 64:10 64:16 66:5 employment 41:21 42:13 44:21 46:11 50:14 empowered 41:20 enable 14:24 67:13 encourage 14:22 encouraging 14:18 endeavors 14:20 ended 69:22 engaged 32:19 enjoy 71:20 ensure 15:12 entered 10:6 49:3 entire 18:15 entirely 9:5 61:13 entities 13:24 22:8 38:15,24,25 39:2 57:19 entity 27:10 38:19 43:15 57:21,25 envision 19:4 eric 4:12 9:25 essential 33:12 essentially 52:17 establish 35:3 established 54:16 65:14 66:7 estate 22:11 24:21 30:6 33:14 40:3,5 56:10 estate's 40:4 et 1:16 2:6 3:9,14 16:9 49:7,8,13 evaluate 17:21	event 35:21 36:4 69:9 events 70:11 everybody 12:21 44:11 60:23 71:18 everyone's 20:5 evidence 57:9 67:25 exact 61:14 exactly 10:9 67:8 exaggerated 55:14 examiner 55:1 57:9 58:22 59:9 65:2 68:13,13 examiners 63:21 example 19:2 22:6 55:1 excellent 67:23 excess 31:24,25 excuse 25:6 37:9 37:11 exercise 67:2 exhibit 42:12,19 42:21,23,24 46:22 exist 27:21 28:11 50:8 58:1,9 existed 25:25 32:22 existence 58:13 exists 57:13 expanded 28:6 57:10 58:22 expecting 13:12 13:25 expeditious 13:3 expeditiously 72:3 expend 12:25 expense 33:10 expenses 47:13 experience 40:23	expert 57:9 65:2 expertise 33:5 expires 14:2 explain 48:6 explanation 14:18 explore 70:9 expression 68:3 extended 15:1 34:19 extension 20:17 extensions 16:20 extensive 11:18 25:21 31:14 66:8 extent 16:3 22:2 23:12 35:11 67:21 extra 12:25 extraordinary 13:18
e			f
e 2:21,21 4:1,1 9:1 9:1 34:13 42:3 47:8 48:10,12,13 49:15 50:20,24 52:12,25 73:1 earlier 22:2 71:3 easier 21:11 25:7 easiest 23:13 echo 61:4 71:2 ecro 2:25 edification 19:16 20:5 education 27:9 effect 14:10 41:24 58:24 effort 56:9 eisen 23:14 71:24 either 17:25 19:10 40:12 65:16			f 2:21 47:8 73:1 fact 10:25 22:1 30:2,15 31:14,20 35:14 38:19 42:10 42:12 63:9 67:10 69:12 70:18 factors 56:19 facts 24:17 37:12 38:4 39:10 66:14 67:3 factual 25:8 fairly 54:14 66:7 faith 14:19 familiar 20:23 52:2 far 45:2 47:16 58:25 favor 44:1 february 12:24 13:14 federal 57:8 fee 47:14 feedback 40:6

feel 14:25 64:13 64:14 67:7 feeling 68:7 feeney 7:2 fees 45:8,8,9 feldman 6:6 24:15 24:24 25:1,1,2,4,4 26:3,4,9,19,22,24 28:3,8,14 29:11 30:19 34:4,25 36:14,20,20 37:17 38:6,10,11,12 39:17 45:2 47:11 47:25 54:24 55:4 55:6,11 59:22,24 59:24 60:2,8,21 64:18 67:24 feldman's 45:5 55:8 fell 27:15 fiduciary 40:3,5 53:16 figure 15:5,13 file 70:13 filed 9:14 10:3 17:25 19:18 21:25 49:3 63:4 filiate 27:1 filing 22:1 final 19:15 finally 67:9 finances 29:20 financial 3:5 24:8 25:19 31:1 32:9 find 48:16 55:14 66:23 findings 43:11,14 55:11 60:12,13 fine 30:14 46:12 56:13 69:17 70:24 71:14 finished 47:1	firm 31:1 33:1,2 45:9 46:6,6 55:17 56:6,6,16 57:24 58:6,6,14,16 68:15 firms 25:20,23 33:3,4,8,12 37:6 40:19 50:1 62:25 63:8 64:5 first 10:21 11:2 14:24 20:16 21:3 26:8 35:2 41:10 41:23 56:24 57:4 61:3 66:20 fit 62:16 67:6,8 fleshed 65:3 floor 4:18 flows 62:2 focus 27:16,19 33:23 45:5 focused 11:14 28:9 41:18 folks 23:12 51:11 67:22 68:21 71:15 follow 20:20 footnote 34:9 49:14 footnoted 48:17 48:24 foregoing 73:3 fork 15:5 form 17:12,15,19 21:5,12 23:1,3,4,7 formed 29:12 former 15:16 54:6 forms 21:18 23:2 forth 25:9 28:18 forward 12:2 17:10,16,18 21:21 24:9 27:3 28:14 36:2 70:8 found 28:11 32:22	foundation 27:12 four 10:25 11:6 27:20 38:14 43:8 framed 64:25 frank 7:25 frankly 12:4 13:4 13:24 35:13 53:16 66:17 free 39:22 54:16 freed 40:1 frequently 39:18 front 21:7 51:1 fruitful 65:25 69:3,9,19 fulfilled 14:1 full 18:19 fully 11:9 22:16 functioning 25:15 64:16 functions 62:6 funds 27:5 further 18:3 61:18 63:6 70:9 furtherance 40:4 future 20:8 g g 9:1 general 20:3 32:5 34:6 36:16 72:2 generally 61:23 generically 36:7,8 george 7:21 gerber 15:16 geremia 4:11 9:25 23:25 24:1,2,4,6 24:24 29:12 31:12 33:18,18,20,21 36:9,14 37:2 39:4 39:5 40:9 48:1,22 50:17,19,24 51:4 51:15 52:10,15 53:11,24 54:1,8 54:14,21,25 64:18	64:22 68:19,25 69:2,5,8,24 getting 56:4 69:23 70:12 give 23:15 26:1 43:25 59:19 given 55:10 70:10 gives 13:17 46:25 glad 11:3 go 10:18,18 12:2 15:6 18:25 21:21 26:23 33:6 37:15 41:20 42:10,14 43:4,6 44:5 45:3 46:9,15,17 47:16 50:18 53:18 54:19 61:18 62:20 63:4 63:18 65:25 67:17 68:24 69:1,5,6,6 72:5 goals 67:10 68:17 goes 13:19 44:15 68:3 goffe 7:3 going 10:19 11:21 13:21 14:1 15:6,7 15:13,15,24 17:6 17:18 18:17 19:11 20:1 25:12 30:18 31:9 36:23 37:4,5 38:8,11 45:16 52:20,22 54:22 56:15,16,21 58:21 59:6,15 65:11,19 65:20 66:18 69:8 70:20,25 71:6 goldin 3:4 6:23 23:23 24:8 25:18 33:2 41:18 42:19 45:9 56:6 57:24 58:6 61:5 goldin's 46:6
--	--	---	--

[gonzalez - improper]

Page 9

<p>gonzalez 6:20 25:11 41:17 61:5 gonzalez's 28:20 33:11 61:19 good 9:2,20,22 10:15,23 11:8 14:19 16:5,16,17 18:7 21:16,19 22:20 23:17,20 24:22 41:6 42:11 59:23 61:2,2 68:8 68:20 gotten 42:1 grant 30:21 granted 16:19 25:16 46:17 grateful 71:1 great 25:4 33:5,10 56:4 62:19 66:21 greater 59:6 green 2:12 greg 6:13 grounds 62:8 guess 21:8,21 38:13 69:18 guidance 65:6</p>	<p>hear 15:17 18:5 20:6 23:25 24:25 25:2 26:7 41:6,9 61:1,3 65:8 heard 23:20 hearing 3:1,4 9:3 9:5 11:2 12:2,18 13:5,14 14:1 15:7 15:10 23:24 57:17 59:12 68:11 70:3 70:20,21 71:23 72:12 heck 15:8 hello 24:2 help 9:17 16:2,3 18:19 72:1 helpful 14:17,18 25:11 hennessy 7:13 higher 19:24 highlighted 45:2 highlights 43:9,15 highly 63:6 hindsight 37:17 38:3 hired 47:18 hiring 50:1 hits 15:4 hold 42:16 43:1 52:25,25 holdings 30:20,24 hole 56:8 64:21 holiday 70:6 71:19 hon 2:22 honor 9:20 10:2 13:7,10,12 14:12 15:19,22 16:10,18 18:7,12,24 19:7 19:13 20:12 21:20 22:24 23:18,25 24:4,12,22 25:2,8 25:17 26:4,20</p>	<p>28:9 29:11,16 30:21 33:15,21,22 34:3,22 36:20 37:2,8,10,14,16 37:20 38:7,21 39:5,16 40:6 41:12,14 42:14,18 42:22 44:4 46:16 46:18 48:4,17 49:4,19 50:3,17 50:25 51:4 53:12 55:3 56:23 58:18 59:22,24 60:3 61:2 62:3 63:16 63:24 64:22 65:8 66:5 69:13 70:2 71:2 72:6,9 hope 23:4 56:5 61:3 68:18 71:5 hopeful 11:24 23:6 hopefully 14:15 17:19 69:16,19 71:6 horse 59:21 hours 67:1 hyde 3:25 73:3,8 hyphen 42:14 hypothetical 35:22 52:19 hypothetically 28:5 55:13,15 hypotheticals 55:14</p>	<p>36:3 38:12,13 39:8,20 40:10,12 40:21 41:19 42:6 44:18,24 45:8,17 46:1,6,9,9 47:5 49:24 50:15 52:18 52:21 53:2,9,14 54:16,25 55:25 57:8 58:10,14,14 58:19,21,23 59:6 59:8,9,13 60:10 60:10,12 61:20 65:5,10,12 66:9 68:14 70:7 iac's 28:3,5 31:19 33:13 46:8,24 iacs 65:19 idea 68:20 ideas 70:7 identified 26:11 26:11 41:23 56:1 identify 9:10,11 28:15 identifying 26:17 ii 43:7 il 5:18 ilan 6:22 immediately 12:10 32:23 impeccable 40:22 67:11 impeccably 41:19 impediment 56:18 imperative 25:15 implication 41:3 important 11:2 19:6 20:25 32:7 64:4 66:22 67:10 67:14,16,20 impose 70:4 impossibility 42:5 improper 36:11</p>
<p>h</p>	<p>hand 18:6 20:11 61:10 handful 27:4 happen 22:8 65:21 happened 10:20 happy 18:5 26:6 64:18 70:17 72:7 72:9,11 hard 67:5,6 71:7 harkavy 7:9 harris 6:23 hasn't 69:13 head 32:8 heads 71:1</p>	<p>i</p>	
		<p>iac 10:5 25:7,10 25:20,21 26:1,12 26:15,25 27:16,19 27:23,25 28:5,9 29:15 31:14 32:18 32:20,22,25 33:23 34:7,16,19 35:10 35:12,21,24 36:1</p>	

inability 56:25 inclined 63:18 include 13:23 28:6 included 10:3 includes 19:25 67:18 including 25:24 32:3 44:1,2 incorporated 38:16 increase 12:1 indemnity 2:6 3:13 16:9 independent 3:2,5 6:2 24:8,16 25:5 29:7 32:16,18 34:2 35:5,6 46:2 56:12 61:25 62:1 64:9 indicated 17:6 71:5 indication 70:25 indiscernible 21:19 43:24 44:9 49:7 53:19,25 58:11 59:17 60:17 69:5 individual 9:7 individuals 28:24 30:15 34:6 37:5 39:21 40:21,25 64:12,15 influence 31:18 inform 22:25 information 11:15 13:16,20 17:14,17 18:15 21:1,2,6,9 21:11 22:4,5,13 23:8 25:23 46:7 63:5,6 informed 55:9	initial 12:14 initially 24:15 injunction 11:13 13:16 14:2 70:21 input 31:17 32:13 insiders 62:11,11 62:25 63:7 64:6 insignificant 62:20 insist 15:9 insists 50:4 instance 31:5,6,10 instructions 19:15 insurance 5:2 10:7 16:7,11 17:14,20 22:11 23:21 32:7,10 insured 16:25 insureds 22:9 insurers 16:24,25 17:5,9 18:12,14 18:20,25 20:11 21:2 23:3,6,9 integrity 41:17 intended 25:18 intending 43:18 intends 53:14 intense 53:22 intention 19:1,25 36:2 interact 65:5 interest 24:21 68:9,9 interested 21:24 55:18 56:11 interesting 70:7 interestingly 64:8 interrupt 21:13 26:5,22 59:25,25 61:12 interrupted 28:13 37:13 39:4	intervene 17:7,8,9 intervenes 20:6 intervening 18:1 70:5,11 interviewed 32:2 32:5,6,6,7 intimated 45:10 intra 39:19 intrigued 68:10 intrusive 21:7,8 investigate 27:1 27:23 29:3 39:19 40:4 45:1 51:23 53:16 54:17 62:1 65:14 investigated 26:25 27:13 28:10 38:14 investigating 26:16 49:25 investigation 25:21,22,24 30:4 31:15,19 32:11,20 39:22 40:11 45:7 45:12,15,25 46:10 47:9 63:14 investigations 63:11 investigative 43:11 investigator 41:21 investigatory 26:25 33:3 invokes 39:11 involve 36:6 63:22 involved 21:24 29:17,18 31:6,15 32:3 62:19 involvement 38:18 involves 67:19 involving 23:1 27:5 28:7	issue 17:2 20:20 30:17 32:17,24 33:22,24 44:23 47:17 48:23 49:23 56:17 57:4 58:13 62:24 65:7 issues 11:8 24:20 25:24 65:3 66:2,4 69:11,15 72:1 item 10:12
j			
j 6:23 jam 67:7 james 4:21 6:18 7:5 13:10 41:12 january 11:10 27:3 32:4 jared 7:10 jeff 6:25 8:1 jennifer 7:2 jillian 7:7 jim 20:23 job 67:23 john 5:6 16:10 join 22:12 joined 9:23,24 jones 4:3,16 6:24 9:21 20:23 23:24 24:1 41:13 56:15 67:22 joshua 6:19 judge 2:23 9:2 15:16 61:5,19 judges 41:17 judging 38:3 july 60:8 jump 30:14 junction 32:20 justice 6:8			
k			
kahane 8:1 karen 6:17 7:24			

[keep - moment]

Page 11

keep 9:16 20:1 46:5 50:7 kemble 5:10 kevin 5:13 18:8 19:14 kind 12:20 15:4 17:17 21:5 36:8 54:22 kinks 11:7 knew 19:1 know 11:13 12:4 12:13,25 14:16,17 15:4,17 18:12 19:10,10,11 20:7 21:9,23 22:6,14 23:6 28:15 29:1,2 30:14 31:12,22 39:6,16 41:24 42:24 43:17 44:18 47:10 48:9 50:11 50:25 51:25 54:25 55:5,11 56:11,12 56:17,17,19,24 57:7,7,11 58:7,8 58:10,23,24 59:11 60:21,24,25 62:8 63:16 65:1 66:13 67:1,6 68:1,2,2,4 69:22 70:2,24 71:4 knowledge 33:3,5 33:16 54:24 known 40:22 knows 24:12 33:17	50:10 57:22 66:6 67:1 70:19 lawsuit 37:18,19 38:23 leander 6:18 leapfrog 56:16 learn 33:8 learning 33:9 leave 15:14 19:17 69:22 ledanski 3:25 73:3 73:8 left 41:15 47:10 legal 25:18 73:20 legitimately 23:9 lengthy 9:9 letter 35:7 51:2,3 51:4 letters 34:18 35:9 letting 40:16 level 64:17 67:17 lexington 5:3 lifland 7:8 limbo 18:2 limited 29:14,22 57:13 line 41:9 50:1 lines 45:11 listen 15:17 litigation 11:16 13:21 14:8 22:20 26:12 40:13 44:3 45:19 53:21 54:2 56:7 57:20 58:7 58:20,22,24 59:4 67:19 68:15 little 48:9 49:22 lloyd's 20:14 lloyd's 5:16 llp 4:3,16 5:1 lodged 41:7 london 5:16,16 17:2 20:14,15,18	22:9 long 11:19 25:22 35:2 look 15:17 46:10 53:19 69:20 70:5 looked 38:21 looking 9:14 12:19 14:3 18:21 18:21 21:1 23:12 48:25 49:2 68:15 lose 47:20 67:9 lost 33:10 58:4 lot 12:25 14:16 15:9,10 55:25 62:15 64:11 68:16 68:17 70:13,15,15 70:16 71:15 lunch 72:5	62:4,18,18 mcnamara 7:22 mean 13:1 14:14 30:9 33:7 36:17 38:13 53:21 54:11 54:17 55:5,24 64:2,24 meaning 45:6 66:15 means 13:16 19:23 melanie 7:1 member 31:1,6 members 29:15 30:12,16,25 31:10 32:18 34:7,15,19 35:6,9 39:23 45:8 53:6 54:6 59:9,13 62:24 64:5 66:9 68:14 70:8 membership 50:11 memorandum 47:3 mentioning 63:12 merely 49:12 michael 7:20 mickee 7:13 middle 35:2 million 27:2,11,14 27:23 28:1,7 45:7 mind 53:9,11 69:25 mindful 16:1 mineola 73:23 misleading 60:16 misled 60:15 mission 67:14 mistake 22:17 moftitt 7:5 moment 21:13 40:16 54:20
l		m	
lampert 38:5 language 52:13 lauren 7:8 law 34:9,10,12,24 36:11 41:20 42:2 42:4 44:8,14,15 48:2 49:8,10,15	little 48:9 49:22 lloyd's 20:14 lloyd's 5:16 llp 4:3,16 5:1 lodged 41:7 london 5:16,16 17:2 20:14,15,18	ma'am 26:4 machine 67:7 making 19:11 67:6 68:6 man 72:6,7 manage 71:19 management 32:8 54:7 managing 49:9 mandate 26:25 27:24 28:3,6 29:21 manner 31:23 39:25 mark 67:16 market 5:16 17:2 20:15 22:9 martin 7:14 matin 7:6 matter 1:5 30:19 30:20,24 41:11 42:2 matters 23:23 29:17 30:7 38:14	

[monroe - oversight]

Page 12

monroe 5:17 moore 7:15,16 moot 35:21 52:19 53:12 moriarty 6:17 morning 9:2,3,10 9:20,22,23,23,24 16:16,17 18:7 59:23 morristown 5:11 motion 10:7 17:4 17:7,9 18:4 19:11 19:18 20:1,18 45:22 46:3,17 61:13 70:13 motions 10:3,5,7 10:12 17:11,25 63:4 mount 5:10 mouth 66:19 move 10:12 17:7 23:22 28:14 36:2 moving 17:10,16 19:2 24:9 70:8 72:4 multiple 26:6 42:11 51:22 mute 9:17 28:25 44:10,11 64:4	needed 17:13 18:17 46:1 needless 25:21 needs 40:10 negotiate 12:6 negotiating 13:1 negotiation 16:4 22:19 40:12 45:19 negotiations 16:3 never 53:9,11 new 1:2,7,13 2:3 2:13 4:6,19 5:4 6:4,11 17:23,24 34:8,12,24 41:20 42:1,1 44:8,14,15 48:1 49:8,10 58:11 68:15 news 11:8 nexus 12:10 13:3 13:17,20 14:7,12 15:1 night 11:17 nj 5:11 non 13:18 22:7 31:6 42:4 49:11 49:12,16 nonprofit 67:4 noted 29:16 32:12 34:3,4,25 35:6 noting 11:23 notion 39:7,20 52:22 65:1,4,10 notwithstanding 30:15 64:8 november 2:15 9:15 10:21 14:14 73:25 number 9:5,15 11:7 16:7,20,24 20:24 26:7,10 36:5 42:24 47:22 52:18 64:25 66:2 66:21	numeral 43:7 numerous 32:8 ny 2:13 4:6,19 5:4 6:4,11 73:23	59:18,18 60:7,22 60:23 64:2 69:4,4 69:17 70:1,22 71:9,21 old 73:21 once 19:4 open 35:23 69:22 opening 41:15 operations 66:8 opinions 57:12 opportunity 59:19 69:10 oppose 17:7 opposing 17:9 opposition 41:15 order 11:15 17:20 23:9,20 46:11,16 50:14 orders 10:6 30:22 ordinarily 29:7 ordinary 64:10 66:15 original 12:22 44:20 oswald 7:25 otterbourg 3:1 6:1 23:23 24:7 25:5,18 36:21 42:22 45:9 46:5 46:18 49:21 54:23 56:6 57:24 58:6 58:16 otterbourg's 55:8 ought 68:4 outset 40:16 outside 68:1 outstanding 47:12 overall 65:24 overlay 67:4 overlooks 34:9 overruled 34:11 oversight 32:12
n			
n 4:1 9:1 73:1 named 35:6 narrow 66:10 nature 55:1 necessarily 31:3 necessary 40:12 47:3 need 11:15 12:12 12:20 15:13 17:20 21:6 22:4 23:4,9 45:19 54:19 60:23 60:24 69:1			
	o	o 2:21 9:1 73:1 objected 24:13 objection 33:25 34:1,22 35:12 39:7 41:7 48:3 51:17 52:16 61:9 64:23 objections 24:20 59:20 65:1,9 66:5 obligation 40:3 56:12 observation 12:16 66:20 obtain 21:8 obtaining 13:16 obviate 23:4 obvious 56:5 obviously 11:20 19:17 20:3 57:8 60:6 63:22 66:21 70:24 offer 16:1 34:18 35:8 offered 65:4 office 20:13 41:8 63:23 officer 31:2 62:13 official 24:12 offline 65:25 68:20 69:15 oh 10:17 58:5 okay 10:16 18:5,9 19:16 23:11,17 24:5 26:21 28:2 28:12 36:10 43:1 43:3,4 46:14,20 47:9,22 49:5,14 49:20 51:8 55:13	

[owned - preparation]

Page 13

owned 27:6	partner 71:3	petition 25:20	67:12
p	parts 46:11	30:5	pointed 37:20
p 4:1,1,12 9:1	party 9:11 31:2	phelps 31:1	42:3
p.c. 3:1	45:18 67:20	phone 28:25	points 35:14
pachulski 4:16	pass 40:17	44:10 60:24 64:3	61:11 63:3,24
10:8 41:13	paths 15:2	phones 9:17 44:11	64:5
page 12:22 34:1	patrick 7:4	physical 42:5	policies 17:2 22:9
42:14,24 46:19,20	pause 54:20	pick 15:15 39:3	22:11 29:19
46:22 48:18 51:11	pc 6:1 25:5	picked 71:12	pool 67:18
pages 11:19 31:23	pedophilia's	picks 47:17	position 18:17
31:25	18:22	piece 22:4	59:14
paid 36:25 37:6,6	peg 56:8 64:21	pieces 26:20	positioned 19:5
45:8,9	people 14:16	place 25:12	possession 38:23
painting 62:7	36:25 41:18 57:18	plaintiff 1:14 2:4	possibilities 63:13
paper 22:20 30:22	58:11 61:12 67:15	54:1,10 57:2 59:5	possibility 12:1
35:16	71:19	65:23	53:23
papers 26:10	percent 18:16	plaintiff's 18:18	possible 14:23
28:16,19,25 32:16	26:14	57:2	67:11
35:7 40:2 60:11	percentage 47:12	plaintiffs 14:8	possibly 68:13
63:17 66:3	period 18:15	plan 15:18 36:2	power 53:18
paragraph 44:15	26:13 30:5 70:5	plate 70:16 71:16	57:22 64:12
48:18,19,21,25	70:14	platform 9:6	powers 50:13
parameters 17:17	permissible 40:19	play 53:21	57:10 58:22
parenthesis 35:4	41:5	pleadings 26:6	practical 14:14
parish 19:3,3	permits 49:11,15	41:25 45:21 55:7	56:18
parishes 22:12	permitted 9:8	55:12	practice 18:4
park 6:3	35:20 49:16 50:14	please 9:10,12,16	pre 3:10,15 10:4
parsing 54:23	51:23	21:14 26:5 28:13	10:13 25:20 30:5
67:2	person 47:19	28:25 43:2 44:10	precedent 30:11
part 15:11 18:24	57:25 59:10 62:14	44:11 54:20 61:1	precedents 30:12
22:18 27:24 28:3	70:19	64:3 72:11	precisely 38:22
32:17 35:12 46:3	personal 21:10	pleased 72:3	preclude 57:16
48:23 55:21 61:16	personnel 29:20	plus 10:22	58:2,8
67:8 71:16	32:1,2	pm 72:14	precluded 29:9
participants 17:2	persons 29:14	point 9:16 12:4	63:20
participate 9:10	30:1 64:15 66:6,6	17:23 21:16 23:22	precludes 59:17
particularly	perspective 46:12	31:8,11,13,16	precursor 17:12
25:14	46:14 56:9	32:16 38:7 49:1	preliminary
parties 13:19,20	pertinent 13:24	52:16 53:23 55:24	11:13 13:15 14:1
13:22 14:9 15:12	51:21	55:25 60:25 61:12	70:21
21:1 22:3 33:7	peter 6:6 7:22	61:16 63:2,10,14	preparation
38:15 55:18 62:19	25:4 36:20 38:12	63:15,16 64:7	15:10
64:1	59:24,25	65:24 66:5,17	

[prepare - recall]

Page 14

<p>prepare 19:6 47:3 55:2</p> <p>prepared 22:21 54:25</p> <p>preparing 70:21</p> <p>prescribe 29:14</p> <p>prescribed 34:5</p> <p>present 6:15 68:23</p> <p>presentation 26:7 45:5</p> <p>presented 64:20</p> <p>presently 58:20</p> <p>presents 62:3 67:4</p> <p>preserve 45:11</p> <p>presumably 17:5</p> <p>pretending 45:24</p> <p>pretty 15:13 21:1 62:11</p> <p>pretzel 53:20</p> <p>previously 11:14 65:3</p> <p>priests 19:3</p> <p>primarily 17:1</p> <p>principles 66:20</p> <p>prior 32:4 39:23 58:1</p> <p>prioritizing 14:22</p> <p>private 9:8</p> <p>problem 18:23 41:19 55:22 57:5 59:10 70:18</p> <p>procedures 29:19 63:22</p> <p>proceed 17:23 19:23 24:24 32:22</p> <p>proceeded 31:11</p> <p>proceeding 3:8,12 10:14,20 16:15,18 23:21</p> <p>proceedings 9:7 10:4 22:7 72:13 73:4</p>	<p>process 19:4 33:13 55:18 67:11 68:8</p> <p>produce 14:20</p> <p>production 14:24</p> <p>productions 14:5</p> <p>productive 59:19</p> <p>professional 50:1 55:21</p> <p>professionals 32:10,23 33:1 35:20 39:9 40:10 47:6,18 51:18,21 51:23 53:15 55:19 56:7 57:2 61:14 62:5</p> <p>profit 34:8,12,24 42:4 48:2 49:8,10</p> <p>progress 14:5,25 72:2</p> <p>progresses 23:14</p> <p>proof 17:12,15,19 18:19 21:5 22:25 23:3,7</p> <p>proofs 18:25 21:18</p> <p>proper 25:15</p> <p>properly 47:17</p> <p>properties 36:7 36:13</p> <p>property 27:6</p> <p>proposed 6:2 11:17 25:5 38:13 46:11 62:6</p> <p>protect 11:3</p> <p>protections 14:10</p> <p>provide 21:10 23:8 31:18 67:11</p> <p>provided 17:15 31:20 63:5 65:6</p> <p>provides 34:13 68:7</p>	<p>provision 34:8,9 48:1</p> <p>provisions 46:15</p> <p>pull 42:11 51:9</p> <p>purpose 60:19</p> <p>purposes 64:14</p> <p>pursing 39:22</p> <p>pursue 24:9 30:5 32:21,23 33:13 35:24 40:1,11 41:2 44:1 45:18 47:3 50:1 51:24 52:21,22,23 53:14 55:17,19 56:2,7 57:19 58:20,22,24 59:4 63:1 68:15</p> <p>pursued 15:2 56:15 65:23</p> <p>pursuing 47:4,17 58:7,15 64:14 65:21 67:18</p> <p>put 17:18 28:25 44:10,11 64:3 68:5</p> <p>putting 66:19</p> <p>q</p> <p>qualifications 61:6,6</p> <p>qualified 41:19</p> <p>qualify 59:13</p> <p>queried 57:7</p> <p>question 19:17 26:8 30:10,10 34:22 35:17,19,22 39:6 41:22 42:5 44:23,24 45:4 49:21 52:19,19 53:12 55:4,23 58:5 60:3 61:24 62:10 65:22 67:16</p> <p>questions 11:22 24:18 26:7 40:24 47:22</p>	<p>quickly 14:23 15:13</p> <p>quite 70:22</p> <p>quote 29:2 51:10</p> <p>quoted 48:1,22 51:1</p> <p>quoting 34:14</p> <p>r</p> <p>r 2:21 4:1,11 9:1 73:1</p> <p>raised 18:6,11 20:11 32:18 33:22 34:22 61:10 66:2 66:5</p> <p>range 27:13</p> <p>reach 11:12,25 14:3 22:2 23:14 71:5,11,24</p> <p>reached 63:15</p> <p>read 26:6 28:15 44:4,6 45:11 48:15 51:2,10 52:13 63:17</p> <p>reading 35:2 50:25</p> <p>ready 32:22</p> <p>real 27:6 45:4</p> <p>reality 14:14</p> <p>really 15:2,3 20:19,25 35:11 39:8 43:9,15 44:17,22,24 45:4 45:14 51:25 52:1 52:19 55:20 62:21 63:2 66:3 67:8 68:7</p> <p>reason 33:17 50:20</p> <p>reasonableness 47:15</p> <p>reasonably 14:21</p> <p>recall 47:25 48:3</p>
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[received - runner]

Page 15

received 11:17 19:15 recollection 12:24 55:12 recommendation 53:14 65:12,17,19 recommendations 43:12,13 record 9:11,13 33:16 35:21 60:3 60:19 63:25 64:11 65:22 73:4 recording 9:7 recordings 9:8 recover 36:21 recovery 67:18 redo 56:11 reed 5:1 20:23 refer 25:6 reference 17:4 18:1 19:12,18,20 20:2,19 referenced 35:15 referred 10:2 refine 23:7 refining 14:23 reframe 39:6 refusal 56:25 refused 56:20 regard 45:17 regarded 39:14 regarding 25:23 related 22:8 26:17 27:5 47:4 relation 38:17 relationship 38:16 43:9 58:25 59:16 relevant 24:17 26:13 relies 34:8 religious 61:24 67:4	reluctance 22:18 remaining 24:20 reminded 40:15 render 68:25 renegotiation 44:2 renker 32:5 repeat 66:24 repeatedly 45:24 replay 15:3 reply 28:20 34:2,8 35:8 36:4 39:11 report 54:25 55:1 55:10 60:4,9,10 60:14,15 65:16 reporting 65:11 reports 65:15 represent 20:14 31:4 57:25 58:7 representation 58:2,10 represented 37:6 38:19,25 represents 58:14 reputation 41:17 reputations 39:25 40:22 request 12:1 35:8 requested 12:23 31:21 requesting 16:21 18:14 39:9 requests 11:18,18 11:20,21,23 12:7 13:1,14,25 14:23 18:16 46:7 require 14:21 15:10 23:15 requirement 49:6 requirements 67:5 researched 57:12	resign 13:5 resolution 14:3 23:10 28:17,18 30:17 34:18,25 45:20 resolve 12:11 22:21 resolved 20:9 69:23 resources 12:25 respect 10:6,11,16 10:19 19:2,7 22:14 23:21 24:18 24:21 27:18,25 31:18 36:3 51:21 56:13 65:7,12 66:10 69:18 respectfully 18:20 35:18 respond 22:22 64:19 responded 51:6 response 20:18 35:8 55:8,8 69:10 69:13 responses 52:16 responsibilities 43:8 46:1 restrictions 43:16 result 21:3 25:22 resulted 27:4 resume 68:22 resumed 70:20 retain 25:18 32:23 33:4 35:20 40:9 59:10 61:13 retained 39:10 61:25 63:8 retention 10:8 23:23,24 24:7,13 25:12 30:11 33:12 33:25 40:18 62:5	return 36:7 69:21 review 31:15 46:24 56:13 reviewed 31:16 right 14:13 15:21 16:5,5 18:3 22:15 23:11,16,19,22 24:23,25 28:12 33:19 36:8,8,19 36:23,23 37:1 39:3 40:14 44:15 49:5,5,20 50:2 55:15,25 59:18,18 60:20,22,25 62:15 64:2 67:8,8 69:17 71:9 rise 43:25 46:25 risk 32:8 road 15:5 46:2 73:21 robust 19:4 rochester 22:6 rockville 1:7,13 2:3 3:9,13 9:4 16:8 role 31:17 41:20 61:14 68:12 roles 49:18 rolling 14:4 roman 1:7,13 2:3 3:8,12 9:4 16:7 43:7 rosenblum 4:10 7:17 9:25 69:25 roster 9:9 round 12:14 56:8 64:21 ruin 71:19 rule 49:7 63:18 rules 57:8 run 48:5,5 runner 68:3
---	---	--	---

[running - started]

Page 16

running 52:1	40:9 50:15 54:10	signed 9:9	special 5:2 16:11
s	seeks 22:13 24:7	significant 62:18	29:6,6,23 30:1,12
s 4:1 9:1	selected 36:25	similarly 35:9	30:23 31:6 34:23
safe 72:12	37:5	simple 45:15	35:3 36:24 39:17
safety 71:20	selecting 55:17	simply 12:19	44:22 51:22 52:2
sake 23:20	seminary 27:7	30:13 39:10 51:19	52:3,3,4,8 61:20
saw 10:6	senior 31:25 32:2	66:9	65:14
saying 47:5 51:12	sense 26:14 41:3	sit 29:7	specific 66:4
51:13 53:11,12,17	sentence 35:2,3	situation 37:23	specifically 61:21
54:17 60:16	48:13,21	63:6 65:13 68:2	spending 14:16
says 42:12,24,24	sentences 42:1	situations 51:22	spent 45:6
44:7 46:16,24	separate 11:20	skills 41:16	spoke 32:8,10
48:12,13 52:24,25	27:10 37:20 38:14	slome 8:3	spot 49:5
53:9,12	38:19,19,25	small 11:7	square 56:8 64:21
scale 68:5,5	separately 38:16	smaller 27:10	squeaky 68:6
scc 1:3,11 2:1 3:8	38:25	28:6	staff 15:11
3:12	seriousness 41:1	smith 5:1 20:23	stand 21:22
scenario 54:14	serve 10:22	smooth 15:12	standard 47:15
scharf 6:22	serves 68:8,9	solutions 9:6	standing 45:22
schedule 69:25	service 11:1,5,9	73:20	46:3 56:17
scheduled 15:25	set 17:23 24:16	solved 59:10	stang 4:16,21
school 67:2	25:9 28:18 39:21	someone's 64:3	12:18 13:7,8,10
scope 11:24 12:7	40:2 66:1,13	somewhat 55:14	13:10 15:19,19
12:23 14:4 18:11	setting 29:18	70:12	20:21,23 22:5
18:20 29:22 47:5	settlement 26:12	sonya 3:25 73:3,8	37:20 41:7,9,12
47:6 49:25	53:23	soon 61:3 70:10	41:12,13 42:16,18
screens 42:11	sexual 23:1	70:24	42:21 43:3,6,19
scrolling 41:8	shara 8:2	sorry 10:17 26:2	43:20,23 44:4,6
sears 38:5	share 68:18	26:22 37:3 40:5	44:13 46:21,24
second 11:11 35:1	shared 23:2 24:10	42:18,18 44:4,9	47:24 48:4,8,17
48:13 57:4	shelley 2:22	44:20 46:22 51:8	48:20,24 49:4,19
secondly 66:25	shorthand 16:6,6	51:15 52:11,24	50:3 51:11 52:5
secret 18:22	show 50:22	58:4,18 69:5,6,7	53:17 54:17,19,22
section 34:12 42:3	showing 42:21	sort 16:2 18:2	55:3,7,16,20
48:10 49:14	shows 42:23	19:9 22:12 27:4	56:23 58:5,18
see 17:17 18:6	shuffling 28:24	sounds 23:17	59:11 60:4,16
20:10 31:9 33:16	side 54:10	45:16	66:18 67:25 69:4
41:8,8 46:21	sides 38:8	southern 1:2	70:6
55:15 57:12,25	sidestepping	speak 9:11,13,17	stang's 61:7 63:3
59:14 61:3 68:21	44:23	27:22 28:1 37:13	start 9:18 33:22
seek 36:18	sight 67:9	41:10 45:17 59:21	41:14 47:24
seeking 19:1	sign 15:14	speaking 31:12	started 53:17
22:13 23:6 36:7		40:7	

[starting - think]

Page 17

starting 9:16 state 10:24 11:16 20:4 57:22 63:23 stated 61:19 statement 20:3 48:7 61:19 statements 61:4 61:23 63:19 states 1:1 2:11 6:8 35:3,9 stating 61:21 status 16:1,17,18 23:21 33:23 41:23 statute 28:23 29:9 29:12 34:5,17,24 35:13,15 39:11 42:7 50:12 52:14 52:24 53:9,12 66:16 67:2 statutory 62:4 63:3 64:6 stay 10:13 11:16 12:11,23 13:18,18 13:21 14:7,8,11 15:1,8 22:7 72:12 steep 33:9 stellar 39:24 step 14:9 stephens 4:12 9:25 stipulated 22:7 stipulation 13:16 14:6 stipulations 16:19 stoneking 7:4 stop 15:17 45:12 stopping 63:13 street 4:5 6:10 stricken 47:9 strings 53:21 stripe 61:10 structure 39:21 44:16	struggling 30:18 66:25 subject 16:19 47:14,15 submit 35:8 69:10 submitted 25:10 30:22 35:7 51:5 65:20 69:13 subparts 43:9 subsection 42:3 43:8 substance 35:11 39:7 substantial 25:23 31:21 sue 62:17 sued 62:9 sufficient 14:25 sugayan 5:20 20:11,12,13 21:15 21:20 suggest 33:7 suggested 55:19 64:24 68:19 69:1 71:10,13 suggesting 49:23 suing 37:1,7,19 39:1,2 62:9 suite 6:10 73:22 summons 10:23 11:5 sunday 10:3 supervisory 31:17 32:13 support 24:17 supportive 22:16 sur 34:2,8 35:8 36:4 39:11 69:18 sure 12:5,18 21:15 29:13 60:1 68:6 surgical 14:19	surprising 33:11 surreply 48:16 49:2 51:1,5,6 69:10,14,18 survivors 11:3 21:9 suspect 45:10 <div style="text-align: center;">t</div> t 73:1,1 table 12:13 take 16:4 50:22 60:23,24 66:23 68:20 70:23 taken 14:9 47:8 talk 22:16 58:16 64:11 68:21 69:1 talking 20:21 44:12 47:20 48:1 69:15 task 40:25 tasks 46:8 team 41:10 technologically 15:12 teed 22:21 telephonically 4:8 4:9,10,11,12,13 4:14,21 5:6,13,20 6:6,15 9:6 tell 12:18 19:13 19:21 47:10 48:16 telling 52:5 53:8 58:11 tells 19:24 50:10 template 23:2 templates 21:19 teneo 3:4 terms 11:23 17:10 17:25 18:3 23:10 36:16 41:4 66:14 tersigni 7:18 thank 9:18 12:9 13:10 14:13 18:4	19:7,8 20:12,17 22:15 25:3,4 28:12 33:19,21 39:5 41:12 43:4 44:12,13 60:19,20 60:22,22 64:2,22 70:2 71:25 72:2,6 72:8,8,10 thanksgiving 14:15 15:4 71:19 72:7,9,11 they've 47:21 thing 21:10 23:13 42:6 47:1 50:13 57:7 60:2 65:8 68:4 things 10:20 13:19 21:3,25 22:1 24:16 44:17 48:11 57:16 62:13 64:25 68:11 72:4 think 10:12 11:21 11:22 12:6 13:17 17:22 18:2 19:6 20:25 22:2 23:8 23:11,13 25:9,11 28:19,20 29:25 30:3 31:22 32:14 32:14 33:5,8,9,10 33:23 34:21 38:7 38:17 41:6 45:5,7 45:14 46:15 47:4 48:8 50:3,14 51:16 52:15 54:8 55:16,18 56:24 57:12,23 58:18,19 59:15,20 60:3,5,8 60:11,11,13 61:15 61:23 62:23 63:19 63:25 64:3,4,7 66:6 67:24 68:1,1 68:4,19 69:2,14 70:4,6 71:3,10,12
--	---	--	--

72:1,5 thinking 41:3 68:11 third 4:18 13:20 13:22 14:8 thomas 8:3 thompson 4:14 10:1 thomson 7:19 thorough 32:19 thought 40:6 47:11 55:20 58:9 59:2,12,14,16 66:18 thoughtful 66:22 three 12:7 29:14 34:6 40:21 49:7 threshold 66:11 throwing 45:12 thumb 68:5 tie 68:3 time 9:12 12:12 12:13,17,25 13:14 14:2 16:20 20:17 26:13 33:10 41:6 67:6,6 69:21 71:6 72:1 times 26:6 32:8 today 9:19 14:14 15:15 30:18 38:21 47:20 64:11 65:20 66:2 69:11 today's 57:16 58:2 59:12 todd 4:11 9:25 24:1 told 11:14 52:6 top 42:23 topics 11:24 12:5 track 20:6 tracks 63:14 transaction 27:5 27:11,19 28:1,6	43:25 54:4,5 transactions 26:11,15,18,24 27:1,2,4,12,15,17 27:20,21 28:10 29:3 38:15 39:19 45:1 54:11 66:10 67:19 transactor 54:4 transcribed 3:25 transcript 73:4 transfer 27:6 36:17,19 37:22 38:3 transferees 37:25 transferor 54:5 transferred 27:7 27:9 36:12 transfers 26:13 trial 3:10,15 10:4 10:13 tried 21:3 57:3 true 39:10 51:19 56:21 73:4 trusha 7:3 trustee 6:9 24:12 41:8 57:13 58:23 62:3 64:4,24 65:2 65:10 66:1 68:24 69:15 trustee's 59:20 63:23 64:23 66:4 trustees 34:5,20 63:21 try 14:22 22:10 28:14 42:11,16 58:12 63:5 trying 21:21 45:22 57:16 65:5 67:2,7 turn 16:6 33:18 33:24 45:22 48:10 58:21	turns 71:16 twisted 53:20 twisting 53:20 two 10:3,4,5,7 13:4 18:14 25:23 26:19 28:23 30:24 33:12 42:1 44:17 48:10 52:15 66:11 67:1 70:14,19 type 18:18 30:1 types 29:17 typical 29:23 54:14 65:13 typically 31:9 typing 44:10 64:3 u u.s. 2:23 6:9 24:12 41:8 59:20 62:3 63:22 64:4 65:9 68:24 ucc 65:6 70:13 ucc's 33:24 35:11 39:7 ugly 53:22 ultimate 23:10 unable 20:8 57:24 unanswered 18:16 19:17 unclear 31:4 uncontested 10:3 10:7 underestimates 18:20 underscore 43:13 understand 12:10 12:20 13:3 15:1 16:22 17:3,8 25:14 29:4,10 31:8,11 37:22,25 38:1 43:23 44:6 understanding 16:24 28:8	undertaken 41:1 71:4 underwriters 20:14 undo 36:18 unicorn 57:12 unique 66:13 67:3 united 1:1 2:11 6:8 universe 26:15 unknown 2:25 unlitigated 18:13 unquote 29:2 unsecured 4:17 24:13 unusual 63:6 update 72:2 upfront 21:25 urgency 69:22 use 22:25 55:14 useful 55:14 69:20 v v 1:15 2:5 3:9,13 38:8 54:10 vague 48:9 valuable 55:25 value 17:21 23:10 27:2,14,22 36:18 36:22 45:12 46:5 47:20 varick 6:10 various 64:1 veritext 73:20 versus 16:8 vesey 4:5 vicar 34:6 victims 17:18 56:2 67:12 68:7 view 33:15 61:16 virtue 58:1,10,25 voice 61:3 volume 12:12,17
--	--	--	--

[w - zoom]

Page 19

w	wholly 60:5,18 willing 13:4 willingness 67:25 window 33:6 wish 23:20 wishes 56:2 withdraw 17:4 19:12,18,20 20:1 20:19 withdrawing 18:1 wonderful 70:19 words 26:16 48:9 58:17 66:15,19 67:2 work 12:17 14:22 15:9 21:3,5,25 26:16 45:17 49:24 56:1,11 65:5 66:22,24 67:14 69:14 70:5,7,13 70:16,16 71:7 worked 11:4,4 21:23 working 10:22 11:7 70:11 worth 11:21,23 33:2 wouldn't 58:2 writing 51:7 written 60:10 69:13	york 1:2,7,13 2:3 2:13 4:6,19 5:4 6:4,11 34:8,12,24 41:20 42:1,2 44:8 44:14,15 48:2 49:8,10 you've 52:6 54:9 71:12
w 5:17 waiting 18:3 walks 36:4 walls 62:8 want 14:10 15:2 18:10 21:2 22:17 22:22 25:8 28:15 30:9 33:24 36:12 36:17,21 38:7,7 41:2,14 43:12 49:1 50:6,7 56:21 56:25 58:8 60:2 60:15 61:4,10,11 62:6 66:17,20 67:9 69:21 71:18 wanted 20:19 40:15 41:24 60:18 61:12 63:23,24 wants 35:24 40:12 53:15 56:9,9 warren 7:14 wasn't 51:1 61:13 waste 56:9 water 45:13 way 15:5 17:23 21:7,8 22:8 29:10 31:4 60:17 61:7 64:20 66:23 68:8 we've 19:15 20:22 20:24 30:7,22 38:21 53:13 63:14 65:20 69:11 70:12 week 11:6 14:15 15:4,25 70:14 71:6 weeks 12:7 weinstock 6:19 went 11:5 35:9 whatsoever 40:20 40:23 who've 14:9	z ziehl 4:16 41:13 zipes 6:13 41:9 59:19,21 60:21 61:1,2 zoom 15:10	
	x	
	x 1:4,10,12,18 2:2 2:8 58:6 63:19	
	y	
	y 63:19 yeah 55:5 year 17:24 25:22 year's 33:2 years 18:14 yep 10:10 44:5 yesterday 10:5	

EXHIBIT B

Brittany M. Michael

From: Karen B. Dine
Sent: Tuesday, November 17, 2020 8:12 PM
To: 'Butler, Andrew M.'; Stephens, Eric P.; Ball, Corinne; Geremia, Todd R.; Rosenblum, Benjamin; DiPompeo, Christopher J.; Thomson, Benjamin J.; James Stang; Ilan D. Scharf; Brittany M. Michael
Subject: DRVC Draft Document Requests in connection with Preliminary Injunction Discussions
Attachments: DOCS_NY-#41475-v4-DRVC_Document_Production_Request.DOCX

Counsel, further to our discussions regarding the extension of the preliminary injunction, we attach a draft of the document request that the Committee is proposing to issue in connection any such extension.

Additionally, below is a list of a number of items specifically addressed at the 341 on which it was agreed there would be follow-up.

Please let us know your questions or comments or if we should set up a call to discuss.

Regards, Karen

[REDACTED]

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EXHIBIT C



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November 19, 2020

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Via E-mail (pfeldman@otterbourg.com)

Peter Feldman, Esq.
Otterbourg P.C.
230 Park Avenue
New York, New York 10169

**Re: In re. The Roman Catholic Diocese of Rockville
Centre, New York Case No. 20-12345**

Dear Peter:

I am writing to follow-up on the hearing yesterday in the above-referenced matter regarding the applications (the "Applications") to retain professionals for the Independent Advisory Committee ("IAC"). On behalf of the Committee, we propose to meet and confer with you and counsel for the Debtor to discuss the IAC Applications and the role of the IAC early next week.

In order to have a productive meet and confer, please provide a copy of the "report" that you referenced yesterday during the hearing with respect to the causes of action investigated by the IAC by close of business tomorrow.

I look forward to hearing from you.

Very truly yours,

James I. Stang



Peter Feldman, Esq.
November 19, 2020
Page 2

cc: Corinne Ball (via email)
Todd Geremia (via email)
Christopher J. DiPompeo (via email)
Benjamin Rosenblum (via email)
Andrew M. Butler (via email)
Jennifer S. Feeney (via email)
Ilan D. Scharf (via email)
Karen B. Dine (via email)

EXHIBIT D

Sophia Lee

From: Peter Feldman <pfeldman@otterbourg.com>
Sent: Friday, November 20, 2020 11:26 AM
To: Sophia Lee
Cc: James Stang; 'abutler@jonesday.com'; 'epstephens@jonesday.com';
'cball@jonesday.com'; 'trgeremia@jonesday.com'; 'brosenblum@jonesday.com';
'cdipompeo@jonesday.com'; Jennifer S. Feeney; Ilan D. Scharf; Karen B. Dine
Subject: RE: In re The Roman Catholic Diocese of Rockville Centre, USBC Case No. 20-12345

Jim:

I am in receipt of your letter dated November 19, 2020 requesting the production of the IAC's report that I mentioned during the November 18, 2020 hearing before Judge Chapman on the Diocese's applications to retain Otterbourg and Goldin (the "Applications"). As you know (see UCC's objection to the Applications at ¶11), the IAC is subject to a confidentiality agreement. Specifically, the IAC is required to maintain the confidentiality of information about the Diocese that the Diocese considers to be confidential. It is the IAC's understanding that the report contains such confidential information. Additionally, the report contains information that is subject to one or more privileges.

In view of the foregoing, we are unable to produce the report to you by close of business today, the time frame for the production set forth in your letter. We suggest that you seek the production directly from the Diocese.

I am available to discuss your request but as any resolution must also involve the Diocese, I suggest that the production of the report be one of the items for the proposed meet and confer between the Diocese and the UCC. However, please contact me if you want to speak directly (917-306-4449). Thank you.

Regards,
Peter Feldman



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From: Sophia Lee [<mailto:slee@pszilaw.com>]
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Subject: In re The Roman Catholic Diocese of Rockville Centre, USBC Case No. 20-12345

Attached please find correspondence from James I. Stang in the above-referenced case.

Thank you.

Sophia Lee

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EXHIBIT E



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James I. Stang

November 23, 2020

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Via E-mail (cball@jonesday.com)

Corinne Ball, Esq.
Jones Day
250 Vesey Street
New York, NY 10281

**Re: In re: The Roman Catholic Diocese of Rockville
Centre, New York Case No. 20-12345**

Dear Corinne:

I am writing to follow-up on the November 18, 2020 hearing in the above-referenced matter regarding the applications (the “Applications”) to retain professionals for the Independent Advisory Committee (“IAC”) and our letter dated November 19, 2019 to Mr. Feldman regarding the same. On November 20, 2020, Mr. Feldman responded to our request for a meet and confer with him and you by deferring the matter to the Debtor.

On behalf of the Committee, we therefore request a meet and confer with you to discuss the IAC Applications and the role of the IAC early this week.

In order to have a productive meet and confer, please provide a copy of the report that Mr. Feldman referenced at the November 18 hearing with respect to the causes of action investigated by the IAC by close of business tomorrow. Please also provide copies of all confidentiality agreements and/or non-disclosure agreements between the Debtor and the IAC.



Corinne Ball, Esq.
November 23, 2020
Page 2

I look forward to hearing from you.

Very truly yours,

James I. Stang

James I. Stang

JIS

cc: Todd Geremia (via email)
Christopher J. DiPompeo (via email)
Benjamin Rosenblum (via email)
Andrew M. Butler (via email)
Peter Feldman (via email)
Jennifer S. Feeney (via email)
Ilan D. Scharf (via email)
Karen B. Dine (via email)